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Council Proceedings

Official Report

Bengal Legislative Council

Forty-sixth Session, 1935

From 29th to 31st July and 5th to 9th and 12th August, 1935.

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GOVERNMENT OF BENGAL.

GOVERNOR OF BENGAL.

His Excellency the Right Hon'ble Sir JOHN ANDERSON, P.C., G.C.B., G.C.I.E.

MEMBERS OF THE EXECUTIVE COUNCIL.

The Hon'ble Sir JOHN WOODHEAD, K.C.S.I., C.I.E., in charge of the following portfolios:—

1. Finance.
2. Separate Revenue.
3. Commerce and Industrial subjects.
4. Marine.
5. European Education.

The Hon'ble Mr. R. N. REID, C.S.I., C.I.E., in charge of the following portfolios:—

1. Appointment.
2. Political, excluding Haj Pilgrimage.
3. Police.
4. Ecclesiastical.
5. Regulation of medical and other professional qualifications and standards, subject to legislation by the Indian Legislature.
6. Jails.
7. Hazaribagh Reformatory School.

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6. Jails.
7. Hazaribagh Reformatory School.

The Hon'ble Sir BROJENDRA LAL MITTER, K.C.S.I., in charge of the following portfolios:—

1. Land Revenue.
2. Land Acquisition.
3. Excluded Areas.
4. Judicial.
5. Legislative.

The Hon'ble Khwaja Sir NAZIMUDDIN, K.C.I.E., in charge of the following portfolios:—

1. Emigration.
2. Immigration.
3. Jurisdiction.
4. Haj Pilgrimage.
5. Forests.
6. Irrigation.

MINISTERS.

The Hon'ble Nawab K. G. M. FAROQUI, of Ratanpur, in charge of the following portfolios:—

1. Agriculture and Industries (excluding Excise).
2. Public Works.

The Hon'ble Sir BIJOY PRASAD SINGH ROY, in charge of the following portfolios:—

1. Local Self-Government.
2. Excise.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE, in charge of the following portfolios:—

1. Education.
2. Registration.
3. Wakf.

PRINCIPAL OFFICERS OF THE BENGAL LEGISLATIVE COUNCIL.

PRESIDENT.

The Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh.

DEPUTY PRESIDENT.

Mr. RAZAUR RAHMAN KHAN, B.L.

Secretary to the Council—Mr. J. W. McKAY, I.S.O.

Assistant Secretary to the Council—Mr. K. ALI AFZAL, Bar.-at-Law.

Panel of Chairmen for the Forty-sixth Session.

1. Mr. W. H. THOMPSON.
2. Khan Bahadur MUHAMMAD ABDUL MOMIN.
3. Mr. NARENDRA KUMAR BASU.
4. Maharaja SRIS CHANDRA NANDY, of Kasimbazar.

BENGAL LEGISLATIVE COUNCIL

ALPHABETICAL LIST OF MEMBERS.

A

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur. [Dacca City (Muhammadan).]
Ahmed, Khan Bahadur Maulvi Emaduddin. [Rajshahi South (Muhammadan).]
Ali, Maulvi Hassan. [Dinajpur (Muhammadan).]
Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Arthur, Mr. C. G. (Indian Tea Association.)

B

Baksh, Maulvi Shaikh Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
Bal, Babu Lalit Kumar. [Bakarganj South (Non-Muhammadan).]
Bal, Rai Bahadur Sarat Chandra. [Faridpur South (Non-Muhammadan).]
Ballabh, Rai Bahadur Debendra Nath. [24-Parganas Rural North (Non-Muhammadan).]
Banerji, Rai Bahadur Keshab Chandra. [Dacca Rural (Non-Muhammadan).]
Banerji, Rai Bahadur Shailendra Nath. (Nominated Expert.)
Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Bannerjee, Babu Jitendralal. [Birbhum (Non-Muhammadan).]
Barma, Babu Premhari. [Dinajpur (Non-Muhammadan).]
Barma, Rai Sahib Panchanan, M.B.E. [Rangpur West (Non-Muhammadan).]
Basir Uddin, Khan Sahib Maulvi Mohammed. [Rajshahi North (Muhammadan).]
Basu, Babu Jatindra Nath. [Calcutta North (Non-Muhammadan).]
Basu, Mr. Narendra Kumar. [Nadia (Non-Muhammadan).]
Basu, Mr. S. (Nominated Official.)
Birkmyre, Sir Henry, Bart. (Bengal Chamber of Commerce.)
Bose, Mr. S. M., Bar.-at-Law. [Calcutta East (Non-Muhammadan).]

C

Chanda, Mr. Apurva Kumar. (Nominated Official.)
Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman, C.I.E. [Faridpur North (Muhammadan).]
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)
Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Maulvi Syed Osman Haider. [Tippera North Muhammadan).]
Chokhany, Rai Bahadur Ram Dev. (Bengal Marwari Association.)
Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]
Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]
Chaudhury, Maulvi Nural Absar. [Chittagong North (Muhammadan).]
Cohen, Mr. D. J. (Nominated Non-official.)
Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Babu Guruprosad. (Nominated Non-official.)
Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]
Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]
Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., of Ratanpur. [Minister.] [Tippera South (Muhammadan).]
Fawcus, Mr. L. R. (Nominated Official.)
Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]
Ferguson, Mr. R. H. [Rajshahi (European).]

G

Ghose, Dr. Amulya Ratan. [Howrah Municipal (Non-Muhammadan).]
Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)
Gilchrist, Mr. R. N., C.I.E. (Nominated Official.)
Gladding, D. (Nominated Official.)
Goil, Major-General D. P. (Nominated Expert.)
Guha, Babu Profulla Kumar. [24-Parganas Municipal North (Non-Muhammadan).]
Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]
Guthrie, Mr. F. C. [Presidency and Burdwan (European).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haldar, Mr. S. K. (Nominated Official.)
Haque, the Hon'ble Khan Bahadur M. Azizul. [Minister.] [Nadia (Muhammadan).]
Hogg, Mr. G. P., C.I.E. (Nominated Official.)
Homan, Mr. F. T. (Bengal Chamber of Commerce.)
Hooper, Mr. G. G. (Nominated Official.)
Hoque, Kazi Emdadul. [Rangpur East (Muhammadan).]
Hosain, Nawab Musharruf, Khan Bahadur. [Malda *cum* Jalpaiguri (Muhammadan).]
Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Abi Abdulla. [Bakarganj South (Muhammadan).]
Khan, Khan Bahadur Hashem Ali. [Bakarganj West (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]

L

Lamb, Mr. T. (Bengal Chamber of Commerce.)
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)
Lockhart, Mr. A. R. E. [Presidency and Burdwan (European).]

*Deputy President, Bengal Legislative Council

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]
McCluskie, Mr. E. T. (Anglo-Indian.)
Mitter, Mr. S. C. (Nominated Official.)
Mitter, the Hon'ble Sir Brojendra Lal, K.C.S.I. (Member, Executive Council.)
Mittra, Babu Sarat Chandra. [24-Parganas Rural Central (Non-Muhammadan).]
Momin, Khan Bahadur Muhammad Abdul, C.I.E. [Noakhali East (Muhammadan.)]
Mookerjee, Mr. Syamaprosad, Bar.-at-Law. (Calcutta University.)
Mukherji, Rai Bahadur Satish Chandra. [Hooghly Rural (Non-Muhammadan).]
Mukhopadhaya, Rai Sahib Sarat Chandra. [Midnapore South-East (Non-Muhammadan).]
Mullick, Mr. Mukunda Behary. (Nominated Non-official.)

N

Nag, Reverend B. A. (Nominated Non-official.)
Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
Nandy, Maharaja Sris Chandra, of Kasimbazar. (Bengal National Chamber of Commerce.)
Nazimuddin, the Hon'ble Khwaja Sir, K.C.I.E. (Member, Executive Council.)
Norton, Mr. H. R. (Calcutta Trades Association.)

P

Paul, Sir Hari Sanker, KT. [Calcutta South (Non-Muhammadan).]
Poddar, Mr. Ananda Mohan. (Bengal Mahajan Sabha.)
Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]

Q

Quasem, Maulvi Abul. [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Khan Bahadur A. F. M. Abdur. [24-Parganas Rural (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Raikat, Mr. Prosanna Deb. [Jalpaiguri (Non-Muhammadan).]
Rai Mahasai, Munindra Deb. [Hooghly Municipal (Non-Muhammadan).]
Ray, Babu Amulyadhan. [Jessore South (Non-Muhammadan.)
Ray, Babu Khetter Mohan. [Tippera (Non-Muhammadan).]
Ray, Babu Nagendra Narayan, B.L. [Rangpur East (Non-Muhammadan).]
Ray, Mr. Shanti Shekhareswar, M.A. [Malda (Non-Muhammadan).]
Ray, Kumar Shib Shekhareswar. (Rajshahi Landholders.)
*Ray Chowdhury, the Hon'ble Raja Sir Manmatha Nath, of Santosh. (Dacca Landholders.)
Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
Ray Chowdhury, Babu Satish Chandra. [Mymensingh East (Non-Muhammadan).]
Reid, the Hon'ble Mr. R. N., C.S.I., C.I.E. (Member, Executive Council.)
Ross, Mr. J. B. (Indian Mining Association.)
Rout, Babu Hoseni. [Midnapore North (Non-Muhammadan).]
Roxburgh, Mr. T. J. Y., C.I.E., (Nominated Official.)
Roy, the Hon'ble Sir Bijoy Prasad Singh. [Minister.] [Burdwan South (Non-Muhammadan).]
Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
Roy, Babu Jitendra Nath. [Jessore North (Non-Muhammadan).]
Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sachse, Mr. F. A., C.S.I. C.I.E. (Nominated Expert.)
Sahana, Rai Bahadur Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan).]
Sen, Rai Bahadur Akshoy Kumar. [Faridpur North (Non-Muhammadan).]

*President of the Bengal Legislative Council.

Sen, Rai Bahadur Gris Chandra. (Expert Nominated.)

Sen, Rai Bahadur Jogesh Chandra. [24-Parganas Municipal South (Non-Muhammadan.)]

Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]

Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]

Singh, Srijut Taj Bahadur. [Murshidabad (Non-Muhammadan).]

Singha, Mr. Arun Chandra. (Chittagong Landholders.)

Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders.)

Sircar, Dr. Sir Nilratan, KT., M.D. [Calcutta South (Non-Muhammadan).]

Solaiman, Maulvi Muhammad. [Barrackpore Municipal (Muhammadan).]

Steven, Mr. J. W. R. [Dacca and Chittagong (European).]

Stevens, Mr. H. S. E. (Nominated Official.)

Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Tarafder, Maulvi, Rajibuddin [Bogra (Muhammadan).]

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)

Townend, Mr. H. P. V. (Nominated Official.)

W

Walker, Mr. J. R. (Indian Jute Mills Association.)

Walker, Mr. R. L. (Nominated Official.)

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)

Woodhead, the Hon'ble Sir John, K.C.S.I., C.I.E. (Member, Executive Council.)

Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Forty-sixth Session.)

(Volume XLVI—No. 1.)

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 29th July, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh), in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 106 nominated and elected members.

Oath.

The following members made an oath or affirmation of allegiance to the Crown:—

(1) Mr. W. C. Wordsworth,
(2) Mr. G. P. Hogg, C.I.E.,
(3) Mr. T. J. Y. Roxburgh,
(4) Mr. L. R. Fawcus,
(5) Mr. S. K. Haldar,
(6) Mr. H. S. E. Stevens,
(7) Mr. G. G. Hooper, and
(8) Maulvi Rajib Uddin Tarafder.

Panel of Chairmen.

Mr. PRESIDENT: In accordance with the provisions of Rule 3 of the Bengal Legislative Council Rules, 1920, I nominate the following members of the Council to form a panel of four Chairmen for the ensuing Session:—

(1) Mr. W. H. Thompson,
(2) Khan Bahadur Muhammad Abdul Momin, C.I.E.,
(3) Mr. Narendra Kumar Basu, and
(4) Maharaj Sris Chandra Nandy, of Kasimbazar.

Unless otherwise arranged, the senior member among them present in the above order will preside over the deliberations of this Council in my absence and in the absence of Deputy President.

Message from the Governor.

Mr. PRESIDENT: Gentlemen of the Council, I shall be grateful if you will rise in your places to receive a message from His Excellency the Governor:—

[The members rose.]

Government, House,

Calcutta:

The 1st July, 1935.

"Dear Mr. President,

The message communicated by your letter of the 9th April was duly laid before His Majesty the King-Emperor, and I have it in command to convey to the Council through you His Majesty's thanks for their good wishes and his appreciation of their sentiments of loyalty and devotion to his Throne and Person.

Yours faithfully,

(Sd.) John Anderson."

Obituary References.

Mr. PRESIDENT: Gentlemen of the Council, in the interval Death has snatched away from our midst three very prominent past members of this Council.

On the 16th May last died Raja Reshee Case Law, C.I.E., in his Calcutta residence in Amherst Street at the ripe old age of 83.

He was a prominent member of the Bengal Legislative Council both under the old and the present constitution for nearly 17 years from the end of 1909 to the end of 1926. In the Council he strove hard for the material progress of the country notably in the direction of industrial regeneration.

Raja Reshee Case was born in one of the wealthiest aristocratic families in Bengal. He received a very sound practical training in the business line whose secrets he thoroughly grasped. He possessed sound business acumen and a large fund of energy and knowledge of financial intricacies. He gave ample donations for the establishment

of schools and dispensaries in his estates. Free gifts of money, advancement of agricultural loans, and remission of rents in their distress made him a popular landholder.

The number of Associations, bodies and institutions with which he was connected and which received his help and active co-operation were many. His interest in the Bengal National Chamber of Commerce whose President he was for more than two decades and a half is too well known to need enumeration. He was for a very long time in the Calcutta Corporation and the District Board of the 24-Parganas and was the first non-official Chairman of that body. His great energy for business is amply testified by the fact that he could find time to discharge the manifold duties as Governor, Calcutta Refuge; President, Ram Krishna Anath Bhandar; Honorary Secretary and thereafter President, British Indian Association; Vice-President of the Local Board of the Imperial Bank (Bengal Circle); Sheriff of Calcutta; an Honorary Presidency Magistrate; Member of the Calcutta Improvement Trust; a Commissioner for the Port of Calcutta; a Director of Imperial Bank of India (Bengal Branch), Member of Royal Society of Arts, London; President, Subarnabanik Samaj, and Subarna Banik Association; Member, Advisory Board, East Indian and Eastern Bengal Railways, and Calcutta Tramways Co., Ltd.; Member and Trustee of the Victoria Memorial and the Indian Museum, and various other public bodies and charitable societies too numerous to be mentioned here.

Of the contributions in aid of charitable and educational institutions which come to a substantial sum, mention may be made of a gift of a lakh of rupees for the water-works in his native district town of Chinsura and Rs. 75,000 to the Hindu University at Benares.

In appreciation of his manifold services in the public cause Government conferred on him the title of Raja and made him a C. I. E., simultaneously in 1913. The Raja was a fine specimen of the "old world courtesy" and was easily accessible to all. His death is a real loss to Bengal.

Our hearts go out in deep sympathy to his son and our colleague Mr. Surendra Nath Law, and to the late Raja's family in their sad bereavement.

Gentlemen, on the 24th June last Sir Archibald Birkmyre died in London at the comparatively early age of 60. He was a member of the Bengal Legislative Council under the old constitution from 1915 to 1918.

The late Sir Archy came to India towards the end of the last century and very soon made his mark as a thorough businessman as well as an enthusiastic sportsman particularly in the domains of football and golf. In his early life Sir Archy devoted himself to football and

became the President of the Calcutta Football Club in 1908. He was the oldest active member of the Royal Calcutta Golf Club, was for a time its Captain and thereafter Vice-President and finally he became the President of the Club, which post he held till his death. To his great credit he lifted the Asian Cup, a much coveted trophy, in 1906.

The firm of Messrs. Birkmyre Brothers prospered under the very able guidance of this Merchant Prince of Calcutta. Sir Archy took great interest in public affairs, particularly in the affairs of the Bengal Chamber of Commerce and the European Association. He was the President of the Association for two years and as such he did much to bring the non-official Europeans in closer touch with the Indians.

He was very conspicuous for his liberal gifts. Instances of his liberal contributions are still alive in the minds of many. His magnificent gifts to the Calcutta War Gift Fund, Lady Carmichael Fund, Kalimpong Homes, Birkmyre Hostel in Middleton Row are a few examples. His liberality and public services were recognised by Government by creating him a Knight in 1917, awarding the C.B.E. in 1918 and finally bestowing on him a baronetcy in 1921.

Our sympathy goes out to Lady Birkmyre who is universally loved and admired in Calcutta and his son and successor, our colleague Sir Henry Birkmyre, and to his family in their sad loss. To me Sir Archibald's death is a great personal loss. I valued his friendship most and shall miss him till the end of my days. May the fragrance of his memory be never lost to us.

Gentlemen, the tragic suddenness with which Mr. R. B. Laird died in England on the 6th instance once again brings home to our mind the cruel unreasonableness and arbitrary conduct of Death. He was only 47 when he passed away!

Mr. Laird was a prominent member of the commercial community of Calcutta. He was a member of this Council off and on from the end of 1926 to the end of 1930 either from the Indian Jute Mills Association or the Bengal Chamber of Commerce Constituency. He was a Director of Messrs Thomas Duff and Co., Ltd., and in 1930 was the President of the Bengal Chamber of Commerce.

He took a lively interest in sports and was for a time Captain of the Royal Calcutta Golf Club. Many of us here have vivid recollection of his true sportsmanlike geniality and pleasing manners. His fine qualities of head and heart made ineradicable impressions on the minds of those who came in close contact with him. It may be safely said that he had no enemies.

May his soul rest in peace—a reward for which he well qualified himself in this world of ours.

Gentlemen, it is our duty to send a message of deep sympathy to the members of the families of the illustrious dead. I would ask you to signify your assent by kindly rising in your places.

(Pause.)

(All the members then rose in their places.)

Mr. PRESIDENT: Thank you gentlemen. The Secretary will take the usual step.

Message of Congratulation.

Mr. PRESIDENT: Gentlemen of the Council, I think it is fitting that we take this opportunity of sending through His Excellency the Governor a message of congratulation and our good wishes to the Right Hon'ble the Marquis of Zetland on his assumption of the high office of Secretary of State for India.

We, in Bengal, who knew the Right Hon'ble Marquis as the Earl of Ronaldshay, Governor of Bengal, take special pleasure in his appointment as we feel sure that in the responsible and difficult duties he will be called upon to discharge in his high appointment, especially at this crucial time in the history of India, he will bring to bear on them that large-hearted sympathy for the aspirations of the people of India and that remarkable intelligence which he so conspicuously displayed as our Governor.

In our message we must not forget to send our best wishes also to Lady Zetland.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I have much pleasure, Sir, in associating myself with what you have said just now, and I endorse every word of yours in connection with the appointment of the Marquis of Zetland as Secretary of State for India. In the annals of the British administration, he is the only man who has acquired a deep knowledge about India and her people. As you have just said, he was the Governor of Bengal for some years, and it is, therefore, with great pleasure that we find him at the helm of affairs as the Secretary of State for India. His knowledge and experience about Bengal is well known to most of us, and it is also well known that he knows our difficulties and our requirements. It is, therefore, a gratification to us, and it is a high augury, that he has been appointed at this juncture, when the India Bill is just going to find its place in the statute book. I join with you, Sir, wholeheartedly in sending our hearty congratulations on my behalf and on behalf of the landholding group of this Council.

Maulvi ABDUL KARIM: Sir, we on this side of the House also associate ourselves wholeheartedly with the remarks that have fallen from you regarding the appointment of the Marquis of Zetland as the Secretary of State for India. We on this side of the House are also very glad that one with so much experience of Bengal and who, as our Governor, was very popular, has been appointed Secretary of State for India.

The Hon'ble Nawab K. G. M. FAROQUI, of Ratanpur: Sir, we also associate ourselves wholeheartedly with what you have said in connection with the appointment of the Marquis of Zetland as the Secretary of State for India.

STARRED QUESTIONS

(to which oral answers were given)

Bheramara-Sainthia Railway Project.

*1. **Srijut TAJ BAHADUR SINGH:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether the construction work of the railway line between Bheramara and Sainthia will be taken in hand soon?

(*b*) If the answer to (*a*) is in the affirmative, when is it expected to commence?

(*c*) Are the Government considering the desirability of commencing the work soon to relieve the distress of the people of the place on account of failure of crop for several years by giving them some work?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) The answer is in the negative.

(*b*) Does not arise.

(*c*) The project is not likely to mature in the near future.

Rickshaw Bells.

*2. **Mr. E. T. McCLUSKIE:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state why it is necessary that rickshaws should have the present system of bells attached to them?

(*b*) Is there any reason other than the Police Regulation for this?

(c) Will the Hon'ble Member be pleased to lay on the table a statement showing for the last two years—

(i) how many accidents have occurred to pedestrians from rickshaws; and

(ii) how many rickshaw men have been injured?

(d) Is he aware of a feeling amongst the citizens of Calcutta that these rickshaw bells are a source of nuisance and irritation particularly to the patients in the hospitals and to those citizens who are living on broad streets and also to places of worship situated on main roads?

(e) If the answer to (d) is in the negative, are the Government considering the desirability of making inquiries?

(f) Is the Hon'ble Member aware that rickshaw men are in the habit of ringing the bells for the sake of amusement only?

(g) Is the Hon'ble Member considering the desirability of having them removed?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (a) It is essential for the safety of users of the road that rickshaws should be provided with some warning device.

(b) A bell has to be used under by-law 13 (copy laid on the table) made under section 71(1) of the Calcutta Hackney Carriage Act, 1919. There is no Police Regulation on the subject.

(c) (i) and (ii) No information is available.

(d) and (e) No.

(f) A number of cases have been instituted for the unnecessary use of bells.

(g) No.

Extract from by-law 13 of the by-laws made under section 71 (1) of the Calcutta Hackney Carriage Act, 1919, referred to in the reply to clause (b) of starred question No. 2.

One bell of a pattern approved by the Commissioner of Police shall be carried by a rickshaw bearer and no other alarm device whatsoever shall be carried or used.

The bearer of a rickshaw shall not sound the bell for any purpose other than that of ensuring safety in traffic and shall not sound it continuously.

Detenu Day.

*3. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Member in charge of the Political Department aware—

(*i*) that the Government prohibited publication of news regarding the "Detenu Day" on the 19th May last;

(*ii*) that as a reply thereto the Journalists' Association of Bengal decided to stop publication of all daily newspapers on that day;

(*iii*) that most of the Indian-owned and Indian-managed newspapers of Bengal did not come out with their publication on that day;

(*iv*) that the observation of Detenu Day was an all-India movement sponsored by the Congress president;

(*v*) of any similar action taken by any other provincial Government regarding Detenu Day prohibiting publication of news of the event in their respective provinces; and

(*vi*) of any occurrence of any importance on the said "Detenu Day" in Bengal?

(*b*) If the answer to (*a*) (*v*) is in the negative, will the Hon'ble Member be pleased to state the reason why the Bengal Government only chose to take such unusual step in the matter?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) Yes.

(*ii*) and (*iii*) It appears from press reports that the Indian Journalists' Association decided to suspend publication of their papers on Tuesday, the 21st May, and a uumber of papers did not appear on that date.

(*iv*) According to announcements in the press, the All-India Congress Committee under direction of its president decided that the 19th May should be observed as an All-India Detenu Day.

(*v*) Government are not aware of any such action being taken by other provincial Governments.

(*vi*) No occurrence of importance on this date was brought to the notice of Government.

(*b*) The communique, dated 17th May, 1935, fully explains the reasons which prompted Government to take this step.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the action was taken by the Government of Bengal on their own initiative or at the instance of the Government of India?

The Hon'ble Mr. R. N. REID: I do not think, Sir, that that is a question to which I should be expected to give an answer.

Mr. PRESIDENT: You should answer that question if the matter is within your knowledge and if it is not a departmental or state secret.

The Hon'ble Mr. R. N. REID: I think, Sir, in the public interest, I should not answer that question.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to say if the publication of such news was proscribed ever before in Bengal?

The Hon'ble Mr. R. N. REID: Not that I am aware of. The legislation which enabled such publication to be unlawful was quite a recent matter.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether it is the policy of Government that constitutional means are not to be employed for agitating the grievances of the detenus?

The Hon'ble Mr. R. N. REID: No Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the publication of such news is not a constitutional way of drawing the attention of Government to the grievances of the detenus?

The Hon'ble Mr. R. N. REID: It all depends on the circumstances, Sir.

Question of posting Sub-Judge with sessions powers at Tangail.

***4. Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the question of posting a Subordinate Judge with sessions powers at Tangail has been finally decided by the Government?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what is that decision?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) Yes.

(*b*) The matter has been dropped.

Maulvi NUR RAHMAN KHAN BUSUFJI: Will the Hon'ble Member be pleased to state the reasons for which the matter has been dropped?

The Hon'ble Sir BROJENDRA LAL MITTER: There was no necessity.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Employees of the Joint Steamer Companies.

1. **Maulvi MUHAMMAD FAZLULLAH:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state—

(*i*) whether it is a fact that three-fourths of the employees of the Rivers Steam Navigation and India General Navigation Company, Limited, are not recognised as Company's servants;

(*ii*) whether it is a fact that all the workshop workers under this management are not recognised as Company's servants; and

(*iii*) whether it is also a fact that the crews, sukanies, etc., are not recognised as Company's servants?

(*b*) Is the Hon'ble Member aware that the crews and sukanies, etc., form the majority of the strength of the staff?

(*c*) Is the Hon'ble Member also aware that the workers referred to in (*a*) are deprived of the privileges of Bank holidays, provident fund rules and old age provision under the rules of the Company?

(*d*) Do Government propose to appoint an inquiry committee to investigate into the service conditions, hours of work, housing accommodation, medical aid, adequate old age provision, general health, etc.? If not, why not?

MEMBER in charge of the MARINE DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) The significance which the member attaches to the terms "Company's employee" and "Company's servant," respectively, is not understood. Government are

however informed that the crews of all vessels and the operatives in all workshops, other than the workshop at Rajabagan, are recognised by the Companies as their servants. Contract labour is employed at the workshop of the India General Navigation and Railway Company, Limited, at Rajabagan; operatives employed by such contractors are not recognised as servants of the India General Navigation and Railway Company, Limited.

(*b*) Government are informed that the crews of the Joint Steamer Companies' fleet form the largest section of their employees.

(*c*) Government are informed that—

(*i*) Workshop operatives, other than operatives employed by contractors, enjoy all "Act" holidays and on retirement receive gratuities varying with the length of service.

(*ii*) Crews do not get the benefit of holidays and, with the exception of serangs and drivers, are not members of the Companies' provident funds.

(*d*) The attention of the hon'ble member is invited to the reply given to (*b*), (*c*), (*d*) and (*g*) of his unstarred question No. 32 on 14th March, 1935.

RESOLUTIONS.

(On matters of general public interest.)

Posts of Assistant Director and Assistant Inspectors of Schools for Muhammadan Education.

Maulvi ABUL KASEM: Mr. President, Sir, I beg to move that this Council recommends to the Government that the post of the Assistant Director for Muhammadan Education and of the posts of the Assistant Inspectors of Schools for Muhammadan Education be forthwith abolished.

Sir, a quarter of a century back, to be exact, Sir, in August, 1913, I had the privilege of moving a resolution in the Bengal Legislative Council which asked for the reappointment of Assistant Inspectors of Schools for Muhammadan Education. Twenty-two years after it is with a heavy heart that I move this resolution. I do so, Sir, not in anger, but in sorrow and in disgust. Sir, these appointments have a history of their own. Nearly half a century ago, in 1890, on the initiative of no less a personage than the Marquis of Dufferin, who was then the Viceroy of India, Government felt that Muhammadan educational advancement should be made for certain very cogent reasons,

and it was found necessary to appoint a special officer to find out the difficulties which the Muslims felt, to give them facilities and to generally advance Muslim education. Sir Alfred Croft, the then Director of Public Instruction, selected two young men, the late Khan Bahadur Maulvi Muhammad Ibrahim Ahmad and Maulvi Abdul Karim, my respected teacher, whom I am glad to find here present to-day, and they were practically the two men who were put in charge of Muhammadan education. Sir, these two officers rendered yeoman service to the cause of Muhammadan education; they ran from door to door and organised the Muslims to found public schools, and explained what the difficulties and disadvantages of Muslim students were, and they have been, to a large extent, successful in removing those difficulties and in providing the facilities wherever they could. These officers worked hard, put their pressure on their fellowmen by persuasion and argument, and by such means got those difficulties removed and those facilities granted.

Sir, about the year 1911 on the modification of the partition of Bengal, the Government of Bengal thought that these appointments were necessary. And that brings me to the year 1913. When these appointments were created, these officers were appointed to see where the difficulties lay. In public schools there were in many cases no arrangements made for the teaching of Urdu, Persian, and Arabic; in fact, no system of Muslim culture was included in the curriculum. And it was the duty—and, I believe, so far as the papers are concerned—of these Assistant Inspectors to see to it. But, unfortunately, Sir, for the last five or six years—I may go further and say ten years—these officers have done nothing to remove the grievances of the Muslim students. Sir, they have now become, practically, clerks in the office of the Inspector of Schools. We have been told, Sir, that they are meant only to carry out the orders of their superiors—the Inspectors of Schools. To that I might reply and say that Maulvis Abdul Karim and Ibrahim were appointed under the same conditions. They had the might, the personality, and the ability to press forward proposals for the acceptance of the Government. And many of the reforms that we find to-day such as the transfer of the Mohsin Fund, payment from the provincial revenues of scholarships and free studentships, the provision of hostel accommodation, and many other things, are due mainly to their efforts. I would like to know from the Hon'ble Minister whether these officers are inspectors of offices; and also whether the glorified Assistant Director of Muhammadan Education has taken any initiative for the improvement of Muhammadan education. The question of the appointment of a Maulvi here or the appointment of a Muslim teacher at Dhaniakhali or Tangail will not advance Muhammadan education generally. Sir, we did expect

and we did get—at least at the time of Maulvi Ibrahim and Maulvi Abdul Karim and even long after that—annual reports of these officers which were placed before the Director of Public Instruction and the Government for the acceptance of their views and for such action that was deemed fit. I would like to know whether for the last ten years the Hon'ble Ministers got any report from any of these Assistant Inspectors of Schools regarding the difficulties of Muhammadan boys. Sir, we pay out of the provincial revenues very good salaries to these officers, and we expect that ostensibly these officers are meant to do such work as would advance the cause of Muslim education. I would like to know whether the intention has even been partially fulfilled. I might say that in these days there has been a marked deterioration, from various causes, in Muhammadan culture. Our young boys of to-day are not brought up in that type of good and cultured Muhammadans as in the old days. I do not want to have pious or religious boys: what we want is cultured Muhammadan boys. What arrangements have been made for training the Muslim boys in an atmosphere of Islamic culture and tradition? I cannot deny, Sir, that there are Persian, Urdu, and Arabic teachers in our schools. They are supposed to be the guides of Muslim boys under their charge. Sir, there are boys who have passed with high honours from the Calcutta Madrassah and yet they cannot translate a "small" and easy chapter of the Koran. I have myself seen an annotation of the Koran written by a so-called Arabic scholar who had not only badly translated the Koran but who, it appeared, did not understand the meaning of it. This in our days even the little boys of the Madrassah did understand. This is a thing which every Mussalman commits to memory and repeats in times of prayer. I, therefore, say, Sir, what is the use of maintaining and decorating these Maulvis? Now, Sir, the question comes that these officers are intended primarily for the advancement of Muhammadan culture. The Assistant Inspectors besides visiting, advising and inspecting English High Schools and Colleges have the primary duty of inspecting Madrassahs and Maktabs which are purely Muhammadan schools. I want to know from the Treasury Benches if these officers do their work and also whether these highly-paid officers are capable of inspecting the Madrassahs and Maktabs and whether they know anything about the curriculum of Madrassahs and Maktabs and whether they see that the boys turned out from these schools are well qualified to give religious instruction to our boys. Sir, I can say that after ten years of training these Madrassahs turn out men who are absolutely useless either to society or to community. The grievance is not so much about the money thrown away but about the energy, activity, and intelligence of the Muslim community wasted simply due to the mismanagement and misdirection of these institutions by Writers' Buildings. Sir, when I tabled this resolution I never intended—nor do I intend to do it now—that the public revenues should be saved by the abolition of

these posts. What I mean is that if we have to pay for it, we want the "delivery of goods." We want that these men should be competent men. Sir, in the matter of other administrations of Government you can well afford to have a man or an officer who may not be up to the mark or who may not be able to discharge his duties very satisfactorily. But in the matter of teaching you cannot hope to do it because the thing is that not only the man fails in his duty but deliberately spoils the future career of young men entrusted to his charge. Sir, in our days in the Calcutta Madrassah—I mean the Anglo-Persian Section of it—we learnt our lessons and we were satisfied. To-day, of course, the case is the same with all educational institutions. Our boys open their books with an eye to the examination hall. They only commit to memory such things as may be required for the examination. It may be a satisfactory method of taking a degree from College Square (MR. SYAMAPROSAD MOOKERJEE: What did you do?), but I regret very much that it does not qualify a man even with a degree from Writers' Buildings to discharge his duties in this respect. We want our Maulvis to be our leaders and guides in all matters, not only well-educated and learned, but capable men. It is the duty of these officers of the Education Department to change the educational curriculum and syllabus. It is absolutely essential that Muslim boys, without any solitary exception, should receive—I do not mean to say that they are not learning—a training in Arabic, Persian, and Urdu. But what arrangements are there in our high schools for this purpose? The boys are not troubled with the alphabets of the Arabic and Urdu scripts till they come to the Fourth Class. When this is the state of things you ask a boy who has not learned even the *Aleph*, *Be*, *Teh*, to prepare himself for the Matriculation Examination in three years' time. Is it possible for him to do so? The boy finds huge obstacles—a mountain—in front of him, and naturally he has to give up either Arabic or Persian and to rely on other languages and subjects. The reason is that we have amongst us very highly-educated prominent men who cannot talk, write—and much less understand—even the language which is the *lingua franca* of India and of Mussalmans in particular. I say, therefore, that arrangements should be made in the lower classes for giving boys lessons in elementary Urdu and of the Islamic tenets. Government, the Treasury Benches, may shout in reply that we are trying our best to find funds, but the School Committee will not hear and will say that there is no room in the daily routine to fit in these Arabic and Persian studies. I admit that this may be so, but my reply is whether there is money or not whether there is time or not, the knowledge of Urdu and the Koran and the knowledge of Islam is absolutely essential to every Mussalman. In our early days every Mussalman learnt these things, and I hope they will agree with me that in their early days it is essential for every Mussalman to take these subjects first and then take secular subjects later on. But, Sir,

we find nowadays that our young men of brilliant ability and great intelligence are lacking in the elementary knowledge of Islam or Islamic language. These are the reasons, Sir, which goaded me to table this motion for the consideration of this House. Sir, I think the purpose for which these appointments were created should be carried out literally.

The first Director of Muhammadan Education was Mr. Taylor. He was doing very good work. He had been to Muslim homes and Muslim individuals, talked with them and given them advice and induced them to organise themselves by the force of his arguments and help Muhammadan education. The other officer who was in charge of Muhammadan Education was Mr. Bottomley, now a member of this House. He, in his time, a man of liberal ideas, used to visit every school at least in my division and insisted upon proper arrangements for the training of Arabic, Urdu and Persian, and he succeeded in many cases. When the School Committee refused to do this, he in many cases suspended the provincial grant until these arrangements were made. If I may say so, in many cases, Mr. Bottomley got his way at the point of the sword. He tried the sword. Well, let us try conciliation. I say it is the duty of the Assistant Inspectors of Schools and the Assistant Director of Muhammadan Education to insist that no provincial revenue should be charged for the maintenance of any institution which does not provide facilities for the proper education and culture of all sections of the community, particularly the Muhammadan section, which was the earning member of the family as the producer of the wealth. I may mention one case, that of Benimadhab Institution at Suri. That institution has got more than 150 Musalman boys in various classes, and they have got only one oriental teacher, by which I mean one teacher of Islamic language who is an apology for a teacher. Do you expect —does the Hon'ble Minister expect that a man in charge of ten classes will be able to do anything in the teaching of these studies? The School Committee will say the funds are low. What about the monthly grant-in-aid—why is it given? Well, there is another school side by side at Birbhum which has not only got two Muslim teachers but an additional teacher is appointed from time to time and the Muslim students there——

Babu JITENDRALAL BANNERJEE: How many Muslim students are there?

Maulvi ABUL KASEM: I am much obliged for Mr. Bannerjee's query. If the argument goes further, I may tell him that in the Presidency College there are two teachers and one student of——

Mr. PRESIDENT: Maulvi Sahib, you are going beyond your limit. I do not think you should bring in the Presidency College at all. It is not within the scope of your resolution.

MAULVI ABUL KASEM: With due respect I submit that my resolution wants the abolition of these posts, and I want to prove that the people, who are holding these posts, have not justified their appointment. I say that the argument that is generally brought forward by the Divisional Inspectors and by Writers' Buildings is that the number of Muhammadan students does not justify the maintenance of these teachers. Now, Sir, I submit that it is not the question of number. Suppose they are very few, say, ten students: you have to give them the best education, that is the point. This school is not to be taken individually; but the province as a whole has to be considered, and the system of education to be introduced and maintained should be according to the needs of the various committees, whether they be at Bankura or Mymensingh. Whether you live on this side or that side of the Ganges is negligible. Do not pretend to say that you take much interest in the Muslim minority; if you say so, you must satisfy our needs and claims.

Then, Sir, there is the question of Muslim hostels. I was one of the members of a committee which took up this question. Maulvi Abdul Karim who was then in office insisted on the question of hostels and these posts of Persian teachers and succeeded in his point. The only hostel then was the Taylor Hostel, named after Mr. Taylor. It is the duty of the Assistant Director of Muhammadan Education to see to the teachers in this hostel because it is not attached to any college or the University: it is an independent hostel managed by Government and the Assistant Director of Muhammadan Education. Now, I want to know during the whole tenure of his office how many times he has visited the Taylor Hostel. Is it not a fact that the students there are mostly gamblers? Is it not a fact that they are inefficient and the hostel itself is in an insanitary condition, and has he brought these things to the notice of the Director of Public Instruction and the Government? Or is it that they cannot devote their time to these things because they have too many office files to dispose of? Then there is the other question that some time back Government at the insistence of Mr. Bottomley insisted that every school should have a certain number of Muslim teachers other than vernacular. This, however, was not given effect to. The reason was that there are many schools in which Muhammadan students are few. In the case of English teachers the number does not count, but in the case of Arabic or Persian teachers the number should count. I can give the Hon'ble Minister a list of names of several high schools, at any rate, in my division where there is not a single Muhammadan teacher except one man who is known as the Maulvi and who is an apology for a Persian teacher——.

(At this stage the time-limit having been reached, the member had to resume his seat.)

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I am afraid it has been somewhat difficult for me to exactly appreciate the point of view which Maulvi Abul Kasem has raised. The main gravamen of his charges is—and probably he has been upset thereby—the bad Arabic pronunciation and incorrect spellings of some Arabic students. I may say that if we accept his logic, we have to pillory the two Vice-Chancellors of the two Universities, even if there be only a few graduates of the University with bad spelling and bad pronunciation. Surely, no Government institution, no teacher, no Director, no University authority could possibly be responsible if Maulvi Abul Kasem examines one or two students and immediately runs to the Council with the grievance that the whole system is bad because he has found one or two rotten cases. I do not think there is sufficient justification for it. I can understand Maulvi Abul Kasem's grievances with reference to the work of these officers. Criticism is very easy: I can well criticise and criticise very correctly and ask him whether Maulvi Abul Kasem sent any question either to the Minister or put any such question as a member of this House asking for informations on any grievance he thought he had. I will go further and say that it was only recently that the Muhammadan Education Advisory Committee sent their report to Government, and I think Maulvi Abul Kasem was a member there. This committee was presided over by a distinguished member of our community, Khan Bahadur Abdul Momin. The committee took considerable time to go into the whole question of Muslim education and sent their report to the Government only in November last. Now I want to know from my friend if he had any definite criticisms to make on the work of the Assistant Director of Public Instruction for Muhammadan Education or of the Assistant Inspectors of Muhammadan Schools, why he did not do so as a member of the committee. And who on earth is the Minister or the Director of Public Instruction, or the officer in charge who can possibly take note of casual lapses, even if there is any, against the solemn recommendations of a committee which sat for three years? I can quote from the report itself a conclusion which I hope he himself subscribed to without any note of dissent and that is that the "Mussalmans of Bengal are still backward in education and as the Mussalmans receive an impetus from inspecting officers of their own persuasion and as not a little of their educational advance is due to the efforts of these officers, the continuance of this special agency was strongly advocated by all Moslem Association and leading members of the community." I want to know whether my friend wants to get back from that position and say that this agency is not necessary now——

Maulvi ABUL KASEM: At the outset they were necessary, but they are not necessary now.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I want to know what has happened between November last and the month of July to-day which has so upset my friend as to bring about a new state of things and a new affair in the Education Department?

My friend has criticised that the inspecting officers are not able to detect bad pronunciation. Sir, he himself was a member of the Moslem Education Advisory Committee and visited many Madrassahs; did he come across any boy whose pronunciation was so bad as to make him think that the system was so bad as to justify a revision? Could he detect any such instance? At any rate, there is no reference to such a thing in the report itself.

Then my friend has compared things of 1888 and 1890 with things of to-day, forgetting what extent the problem of Muhammadan education has become more and more difficult to deal with. At the time when two officers were appointed my friend says that they were quite enough for the whole of Bengal. I do admit that at that stage of Muhammadan education, considering the number of the students and the fewness of the institutions, it might have been quite possible for two men only to carry on the work of special Muhammadan education in the whole of Bengal and, probably, for a part of Bihar also. I will now quote certain figures and ask my friend to say as a result of the study of these figures whether he thinks that this problem is exactly the same as it was many years back. I am not now going to deal with the eighties or nineties: I am referring to recent times. I am taking the figures of 1911-12. The number of Muktabs at that time was only 6,000. Would it be possible for my friend to believe that in 1930-31 that number has gone up to as many as 24,000? Other Madrassahs including Junior Madrassahs were not even 200 in number in 1911-12; would my friend believe that their number is now 720 in the whole of Bengal?

Maulvi ABUL KASEM: Waste of energy!

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: That is another proposition. If my friend thinks that the Madrassah system of education is such that it is no use having it, let my Muhammadan friends in the Council give me a mandate to that effect. Unless they are prepared to say that this system should be condemned or thrown away, it is impossible for any Government to take any steps independently and demolish the system. In any case, my point is this, that apart from the work of the officers in the General Department, namely, education in general, the special officers were appointed to look after and particularly inspect the Madrassahs and Muktabs, and to-day if they are only to inspect all the Madrassahs and Muktabs they are not sufficient for that purpose in view of the number that is steadily increasing. It is quite possible that here and there there might be defects

visible, and I do not deny that. But I am afraid that my friend has no genuine grievance, and it is very difficult for me to meet the points raised by him unless he is prepared to accept my point of view, namely, that the number of institutions is a factor which has got to be considered. My friend's grievance would seem to lie particularly against hostel accommodation. But would it be news to my friend if I say that many of these hostels are lying vacant?

Maulvi ABUL KASEM: I spoke of supervision of hostels.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I do not think that my friend wants anybody to believe that all these Muhammadan hostels should be supervised by one man in one division in addition to his other work, and that apart from the fact that he has to work in an advisory capacity generally.

My friend has complained that the work of these officers is not published or known to anybody, far less to the Director of Public Instruction himself. Here, again, I would humbly advise my friend to kindly turn to the annual reports of the Director of Public Instruction and the quinquennial reports, that are published, and even the report of the committee of which my friend was a member, summarising the efforts that have been made and the steps that have been taken with reference to Muhammadan education within the last 20 years. May I ask my friend one question, viz., how many scholarships have been created since these officers have been appointed; how many schools have been provided with Persian and Arabic teachers? After all, my friend should know that the mechanism of Educational Department is this that if a Muhammadan Education Officer makes a complaint, action is to be taken by the General Department, namely, the Director of Public Instruction or the Assistant Director of Public Instruction and the Divisional Inspector. The special officers are to work in an advisory capacity and as a result of their advice, the Director of Public Instruction has to take action. The very circular for which my friend has given credit to Mr. Bottomley—and I, too, certainly give Mr. Bottomley credit for it—is due in no small measure to the officers who have drawn attention of the Director of Public Instruction to these matters. I am afraid unless we realise that, it will be more difficult to believe my friend's complaint that they are so overworked that they cannot dispose of their files.

There is another matter with regard to the Assistant Director of Public Instruction for Muhammadan education. This officer is also the Secretary of the Text-Book Committee. Does my friend admit or does he not admit the amount of work that he has got to do with a view to get rid of the complaint that text-books are not suitable to Muhammadan needs and sentiments and are sometimes offensive?

What amount of work is done by this Assistant Director of Public Instruction in the matter of selection of text-books is perfectly well known to my friend in addition to his work in the general line.

There is another complaint that these Muhammadan officers have not been able to introduce elementary Urdu in the lower classes. I do not think anybody in this House would support my friend in the statement that in this century the Mussalmans of Bengal except in two or three places, namely, Murshidabad and Dacca, the lower classes in a Muktab or Madrassah are to be taught Urdu, forgetting that the first duty of an infant boy is to know his own vernacular. I do not deny the importance of Urdu-learning for purpose of religious teaching, but surely teaching of Urdu in the Infant Classes will not develop that. So I would exactly want to know what he exactly means by his complaint in this respect. I am afraid religious teaching would be impossible in the lower classes unless it is given through the medium of the vernacular, and no infant would be benefited if he is not taught this subject in his own vernacular. I may inform my friend that the Education Department is really anxious to do something for the religious and moral teaching of the students, and if he will please wait till Thursday, he will find a memorandum published in the *Calcutta Gazette* setting forth what is proposed to be done in this respect.

My friend has also complained about the Beni Madhab Institution and several other institutions. Well, I can say this much; if my friend has definite facts and figures with him, I will certainly look into it, but it is difficult to deal offhand with an individual instance of complaint. I can say this much, that, within the last three or four months I have asked the Director of Public Instruction to supply me with figures of the number of Muhammadan students, and the number of Muhammadan teachers in every school in Bengal. I have got a voluminous file with me, which I am prepared to show him, from which he will find out exactly the number of Muhammadan students and the number of Muhammadan teachers. Excepting a very few institutions, he will find that there is provision for Persian and Arabic teaching almost everywhere in Bengal, where there are at least 10 to 15 students in a school. There are one or two institutions where there are 5 or 6 Muhammadan students and there are also one or two special institutions which were started by people who did not want the Muhammadans to come in but who wanted to develop their institutions according to a particular type of training and nobody can complain if there is no provision for Arabic teaching in those schools. These are all the facts which my friend has put forward, excepting one or two statements of a general nature. If his complaint is due to the fact that these Muhammadan Education Officers have not their time fully occupied, then I join issue with him. But if my friend's contention is that though they are fully occupied the time has come for a little adjustment of their

duties so that by relief from the general work they might devote themselves particularly to the question of Muhammadan education, I will certainly look to the matter; and in point of fact, long before he sent in notice of this resolution, I had been pondering over the question whether they can be relieved of their general education work and take up this special subject of Muhammadan education. So, I hope, my friend will be pleased to withdraw his motion on my definite assurance that I had been looking into that affair long before I received notice of his resolution.

Maulvi ABUL KASEM: I have nothing much to say in reply. In the first place——

Mr. SHANTI SHEKHARESWAR RAY: I rise on a point of order. Is there to be no debate over this resolution, Sir? Several members want to speak on this subject, and perhaps it will not be possible for them to do so inasmuch as the Hon'ble Minister has replied and apparently the mover of the resolution is going to reply. For instance, Revd. Mr. Nag and one other Muhammadan member had risen to speak.

Revd. B. A. NAG: Mr. President, Sir, I welcome this resolution moved by my friend Mr. Abul Kasem not on the ground of finance, for that is no ground. The Muhammadan education has so spread, and will be spreading more, that even if we abolish the Muhammadan inspectorate for Muhammadan education, we will have to appoint inspectors to do the work of inspection of these Muhammadan schools. So that is not my argument. Nor is my argument based upon the inefficiency of particular officers; for if that be true, the solution is easy, as the inefficient officers could be transferred to some other department and efficient officers brought in. The whole history of the appointment of the Muhammadan inspectorate has been a very shaky and fluctuating one. It was appointed as far back as 1882-83. It was given up in 1900. It was revived in 1907, and under what plea? This is the plea, that the conference under Sir Archdale Earle put forward. It was held that the existing inspecting staff did not take sufficient interest in Moslem education. I am glad that I was not in the Education Department and certainly not in the inspectorate. I would certainly resent such a statement against the inspectorate of the Education Department that they did not take interest in the education of a particular community because they did not belong to that community. That argument might come as well from all other communities—Indian Christian Inspectors for Indian Christian Schools, Brahmin Inspectors for Brahmin Schools and Kayastha Inspectors for Kayastha Schools. I do not argue against this inspectorate on the basis of their efficiency.

Sir, India is entering into a new life more and more. I object to these special appointments on the ground of communalism. The Muhammadan boys and young men realising the surrounding circumstances and being taught by people of their own community are either generating in themselves a superiority or an inferiority or inequality complex or what is worse a separation complex. From their childhood they are receiving the impression that they are a class different from the people outside, and that has been the curse of Bengal, and I might say that the communal feeling is stronger to-day than it was ever before; and I do not wonder if the students are so taught separately that they would continue to have feeling and be communal to the end of their lives. As I was saying we are entering into a new life and this resolution has placed before us the right to criticise the very appointment of the inspectorate. Let us go into the question and discuss it and then decide whether it has any claim to our support. The Hon'ble Minister has referred to the statistics. Yes, the statistics are there in the Momin Report. The number of Maktabs and Madrassahs and everything has increased since the appointment of Special Inspectors. But there is not a single line in the report nor in the speech of the Hon'ble Minister to connect the appointment of the Inspectors and this increase as cause and effect.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: On a point of personal explanation, Sir. I spoke under your direction, and when I did so I could not anticipate that these remarks would be made. If I am permitted later on to speak, I hope I shall be able to reply to my friend's remarks.

Revd. B. A. NAG: I shall be personally very glad to hear how these are related as cause and effect. Larger grants for Muhammadan education I shall be glad to support wholeheartedly. (A VOICE: Why?) Because our brethren are backward in education and we must lift them up. Larger grants, larger opportunities, all these I wholeheartedly support, but these special appointments which create communalism I oppose. If the position is that the increase here shows how the inspectorate has worked, the latest report just issued and published in the Gazette of July 25th gives the lie. In the *Calcutta Gazette*, page 988, it is said that the statistics for the past two years which are furnished in the following table show that the number of students increased in the course of a year in all the grades of institutions, except professional colleges and special schools. I am very sorry to say with all apologies to those who are responsible for this report that that statement is not correct according to the statistics given. In fact, apart from higher education and primary education, all the other

institutions have suffered in proportionate percentage according to this printed report. If a chance increase in the percentage is a proof to the credit of the appointment of this inspectorate, then this decrease in the proportion is certainly a discredit to the appointment of this inspectorate. Take it from any point of view you like. The appointment of this inspectorate cannot be continued without definite disturbance to the possible position of the various communities in India. I hope that our Muhammadan brethren will rise up to the level of Mr. Abul Kasem who was a lieutenant of the late Sir Surendra Nath Bannerji and say: "We are out to demolish this communal feeling; we will oppose the appointment necessarily of any Moslem Inspector and would trust any man like Mr. Chanda or any Bhattacharji or Bannerji to look after the interest of our community as we have trusted Mr. Taylor and Mr Bottomley in the past." The great difficulty, and I think the difficulty will be greater in time to come, is the cultural education of the different communities. The education which the British Government has introduced into this country is all secular, which is a Godless education. I am grateful to the Muhammadan community that they have stood up for religious education, and that is also what we and the Hindus stand for. So far as Muhammadan culture is concerned, so far as Hindu culture is concerned, so far as Christian culture is concerned, there will be occasions hereafter when the Government or the new Government will have to make arrangement for the special cultural education of the various communities, but the general education which will remain secular will have to be very general and inter-communal in character so that the communal feeling may die and be buried for ever. With these words I support Mr. Abul Kasem's resolution.

Maulvi ABDUL HAMID SHAH addressed the Council in Bengali. The following is an English translation of the speech:—

Mr. President, Sir, although Maulvi Abul Kasem has moved for the abolition of the posts of Assistant Director and Assistant Inspector for Moslem Education, what he actually aims at is not their abolition but that their incumbents should devote themselves more than they now do to the fulfilment of the original intention with which the posts were created. Circumstanced as Moslem education is at present, it is indeed unthinkable that these posts should be abolished. On the contrary, they should be there by all means and the responsible officers holding these posts should exert themselves more exclusively for the promotion and improvement of Moslem education in Bengal.

When I was starting for Calcutta on the 26th July last a Moslem student of the Ananda Mohan College, Mymensingh, informed me that he had passed the Matriculation Examination in 1934 and since then

had been prosecuting his studies in the said college without paying the tuition fees due from him. This is due to the fact that he has been granted a Mohsin stipend, but the actual stipend has not been paid to him up till now. The Principal of the College has allowed him to attend the classes, although he happens to be a defaulter, on the understanding that his arrears of tuition fee would be realized from the stipend as soon as the same was paid to him. But now for a full one year he has not received a single farthing by way of the stipend granted to him and, in consequence, the Principal has told him not to join classes till he has cleared up his dues. I do not know whether the officers in question have anything to do with the matter or the Hon'ble Minister for Education is directly responsible for it. Be that as it may, such a deplorable state of things must be remedied at the earliest opportunity.

With these words, I beg to oppose the original proposition contained in the resolution and request that the officers connected with the resolution should be mindful of their duties.

(The Council was at this stage adjourned for 15 minutes.)

(After Adjournment.)

Babu JITENDRALAL BANNERJEE: Sir, the mover of this resolution, Maulvi Abul Kasem, missed the point of a very simple question which I put to him or, rather, he evaded the point altogether and skated merrily away to field of the teaching of Zoology in the Presidency College. Mr. Kasem gave us certain figures and, as usual, his figures were wildly inaccurate. He spoke of the Beni Madhab Institution as having 150 Muhammadan students. It is nothing of the sort The total number of students in that institution is 300, and less than 25 per cent. are Muhammadans—an error of 100 per cent. This is but a small sample of what my friend is capable of producing. I asked my friend about the Birbhum Zilla School, and he conveniently avoided answering the question. I might tell him that in the Birbhum Zilla School the number of Muhammadans is less than that in the Beni Madhab Institution, and this, in spite of the adequate facilities about which my friend was speaking so much—in spite of there being three Muhammadan teachers for teaching Arabic, Persian, and Urdu. Now, in spite of the additional facilities thus offered and in spite of the fact that the fee rates of both the schools are the same—in spite of these factors—the number of Muhammadan students in the Birbhum Zilla School is less. Why? The answer is that the Muhammadan students do not care for these additional facilities. That is the cardinal mistake which my friend Mr. Kasem and other gentlemen like him are always

making. My friends suggest that Muhammadan students should be required to read Arabic, Persian, and Urdu in addition, it is to be presumed, to English and Bengali—that is five languages in all before they matriculate. It is this which is playing havoc with Muhammadan education in Bengal, and it is the bane from which Muhammadan students generally suffer. I ask my friend and all other friends concerned to approach this question not from the Muslim, Hindu, or any other communal point of view; and, so far as Muhammadan education is concerned, it will never improve—and no education will ever improve—unless the question is faced not from the Islamic point of view, but from the educational point of view, pure and simple. There is no such thing as Muslim education—at any rate there ought to be no such thing.

We want, not Muslim education or Hindu education, but education pure and simple—education *sans phrase*—education without qualification and adulteration. If the Muhammadans want to improve their social and political status, they will also have to set up a higher ideal before themselves than at present. An increase in the number of Muktabs and Madrassahs is all very good, but the question is whether in spite of the increase in the number of Muktabs and Madrassahs, we are increasing the number of Muhammadan graduates. Where are your Muhammadan doctors? Where are your Muhammadan lawyers? Where are your Muhammadan engineers? Why is there a dearth of these men in your community? It is because you persist in overtuning your boys, overloading their mind and brain. It is because from the very beginning, from the very outset, you insist upon your boys learning Urdu, Arabic and Persian over and above English and Bengali. The poor boy does not know what to do with himself. We all know that Bengali is the vernacular in Bengal; at least it is so in the case of 99 per cent. of the Muhammadans of Bengal. But our present-day politicians will not be satisfied with Bengali. They must create a vernacular of their own, forgetting the cardinal fact that a vernacular is not a thing which can be created or made. It is a question of fact, of what is or is not. The vernacular of the Bengali Muhammadan is Bengalee; but the poor Muhammadan boy is going to get Urdu superimposed upon it. Till these defects have been got rid of, it will not do to multiply the number of Muhammadan Muktabs and Madrassahs and Muhammadan Inspectors. I am not against the appointment of Muhammadan Inspectors. If they can give a filip to education so much the better. But the best thing will be to alter the whole system of education. Give up the communal point of view about Moslem culture and Muslim education, and concentrate all your attention on education as such. This is the advice of one who is not hostile to the interests of the great Moslem community but who is a better friend of the cause of education.

Dr. NARESH CHANDRA SEN GUPTA: Sir, we have had a great deal of difficulty in following the course of this debate. Mr. Abul Kasem has tabled a resolution which says what he does not mean and he goes on supporting that resolution by a speech in which he meant something which perhaps he did not say. If he asked for the abolition of the posts of the Assistant Director of Public Instruction for Muhammadan Education and the Assistant Inspectors, that would be intelligible enough. If he had put forward any grounds on which these posts should be abolished, we could understand them. But he went out to launch plenty of criticisms not upon these Assistant Inspectors but upon the system of education. He thinks that the system of education should be something which it is not, and that the poor Assistant Director must be responsible for it. The question to which I would most earnestly draw the attention of our Muhammadan friends is, what lines they should follow in the education of their co-religionists. It is a matter of the utmost importance not merely to the Muhammadan community but also to the entire community and the country at large. It is a matter of the greatest importance that the Muhammadans should have the best possible education just as any Indians. On that question, Sir, there must be no difference of opinion. Personally, I think that in all the attacks that have been launched on Muhammadan education —and in this matter I agree with my friend, Mr. J. L. Bannerjee— too much emphasis has been laid upon the Muhammadan part of it and too little upon the education part of it. What we want is that every Muhammadan should be given proper educational facilities, which after all is an individual affair. Education cannot be given *en bloc*. Education in order to be perfect must be individual education—each boy must be educated according to his aptitudes and interests and by methods which are best suited to him. That is the way in which education must proceed. You must have before your eyes the pupil's aptitudes, his interests and the things which he is fit for, and then you should develop in him his aptitudes to the fullest possible extent he is capable of. For that purpose, a broad educational policy is needed and the more you emphasise the Muhammadan part of it, the less you proceed to give the boy the education part of it. What we want is that there should be a policy in which the education part should be emphasised first of all, not forgetting the fact that the pupils are Muhammadans, if they so choose. That is a question which has got to be investigated and pursued, and it is a matter in which the Muhammadans interested must have dominant voice. But what on earth has it got to do with the appointment of these Assistant Inspectors? (Hear! hear!) I am afraid we have been talking for all this time in an entirely unreal atmosphere and the whole discussion has been absolutely futile.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am inclined to think that we have lost the purpose for which my friend Maulvi Abul

Kasem tabled this motion. Sir, so far as I have been able to gather, his point is that certain officers have been specially appointed to look after certain special interests, but in recent times the incumbents of these posts are not doing the work in the spirit in which they are expected to do it. He even went to the length of saying that Government are appointing worthless officers——

Maulvi ABUL KASEM: I have never said worthless.

Mr. SHANTI SHEKHARESWAR RAY: I may bring to the notice of the Government that they should take notice of the feeling of the people in the matter. The people want competent men for such posts and not merely Muslims, however incompetent they may be. In view of the way in which the Hon'ble Minister quoted the report of the Advisory Committee on Muslim Education, I am inclined to think that the Government is taking a wrong view. The Hon'ble Minister seemed to support the suggestion of the committee that the appointments should be made on communal considerations.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I do not think, Sir, that my speech can ever be interpreted in the way suggested by Mr. Shanti Shekhareswar Ray.

Mr. SHANTI SHEKHARESWAR RAY: I am glad to have this contradiction from the Hon'ble Minister, but that was the impression his speech left me. However, if that objectionable feature is removed, I think the grievance of Maulvi Abul Kasem will to a great extent be removed. He wants competent men for such posts, and the policy of appointing mainly Muslim officers to such posts has been responsible for the deterioration in education among Muslims, as Maulvi Sahib has pointed out. I may point out another wrong which this system is perpetuating and that is that it is giving special privilege to the Muslim officers by appointing them to these posts. (A voice: None but Muslim officers can properly fill these posts.)

Maulvi ABUL KASEM: Mr. Taylor and later on Mr. Bottomley held the post of Assistant Director of Muhammadan Education.

Mr. SHANTI SHEKHARESWAR RAY: By appointing only Muslims to these posts what happens is that comparatively junior officers get higher posts. We have too many Muslim Inspectors in the department. Well, Sir, it is not my complaint that incompetent men are appointed to these posts. This complaint has been made by one of the oldest Muslim members of this House—not a back-bencher, but one

of the prominent members of this House who has experience extending over half a century. If he had not felt it, he would not have brought this motion—he would not have brought this silly resolution.

Maulvi ABUL KASEM: It is a silly resolution indeed.

Mr. SHANTI SHEKHARESWAR RAY: Well, I think this debate will help the Government to come to a decision as regards that important point about the question of making such appointments on communal lines.

Maulvi ABUL KASEM: Sir, the debate has taken a turn which I never expected, or had reason to expect. Before I reply to the Hon'ble Minister, I will just say one or two words. Well, the Revd. Mr. B. A. Nag, of the Oxford Mission (VOICES: No, no, "Baptist Mission."), when he got up to speak on this motion and said that he supported me because he wanted that no communal distinction should be made, or nothing should be done for Arabic, Urdu or Persian education, I thought that a Daniel had come to judgment. Now coming to my friend Mr. J. L. Bannerjee, he said that I was wrong in my figures. I may be, but I challenge his argument that the number of Muhammadan boys will not justify facilities for Muhammadan education. I leave it there and come to the Hon'ble Minister.

The Hon'ble Minister has given us figures to show that so much progress has been made. I admit that. I began by saying that these officers in the past have worked very hard and have successfully worked to bring about this state of things. I mentioned in my speech that the pioneers Maulvi Abdul Karim and later on Mr. Taylor and Mr. Bottomley justified their existence. My question is that these officers to-day must equally justify their existence by devoting themselves and seeing what the defects are and what facilities are wanted and how these grievances are to be met. Mr. J. L. Bannerjee has said that a Bengali boy to compete easily and successfully with the members of other communities must devote himself to pure education, which is to say the least of it, of an entirely secular character. But he cannot realise the feelings of Muslims because Muslims think of Islam first and everything else afterwards. There must be education in Muslim culture, in Muslim theology, otherwise we call it no education at all; even if anybody secures P. R. S. The Hon'ble Minister has said that the officers of the Education Department work very hard. I admit that they do, but they work not for the special object for which they were appointed, but because of other special duties to which a good deal of their time and labour is devoted, and they have no leisure to look after these grievances. Because of this in 1913 I moved a resolution for the reinstatement of those officers whose services were then no longer required by the department. I

said then that the reason these Inspectors of Muhammadan Education should be retained, was that they could devote their time fully to this subject.

Mr. PRESIDENT: Are you modifying your resolution, Maulvi Sahib? Your motion is for abolishing these posts.

Maulvi ABUL KASEM: No, Sir, I am replying to the Hon'ble Minister. I think that if we are told that so much interest is taken by Government in educational matters that we are going to have an Assistant Director of Muhammadan Education, and Inspectors of Muhammadan Education, these officers should be able to do their duty satisfactorily and whole-heartedly and should not be burdened with half-a-dozen other duties and their time should be taken up entirely with their duties in connection with Muhammadan education alone. That is my point. In view of the reply of the Hon'ble Minister, I fully believe that he will go into these things. In that view, I beg leave of the House to withdraw my motion.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I am glad my friend has decided to withdraw his motion But there are one or two statements which I would like to make in answer.

I do not want to make a long speech, but I want to explain the policy of Government as regards Muhammadan Education, as it has been misunderstood by some members who have given it a communal colour. I am afraid that the entire position of the Muslim community has been misunderstood both by Babu J. L. Bannerjee and Dr. Sen Gupta and also by Revd. Mr. Nag I am tempted to quote a passage from the Bible, but in respect for Mr. Nag I refrain from doing so. The position of the Muhammadan community is that in accepting a system of education which we call Islam——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Has this got anything to do with the resolution or the withdrawal of it.

Mr. PRESIDENT: The resolution has not yet been withdrawn. It is still under the consideration of the House. Let the Hon'ble Minister meet the points that were raised in the course of the debate.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: My friend knows perfectly well that the argument can be made relevant or irrelevant as he wishes. Anyway, the position of the Muhammadan community is that the sort of education which has done its duty and produced eminent scholars, scientists and others, is not such a system that simply because another has come forward, it is to be abandoned. On the other hand, a great many of the Muhammadan community believe that Muktab and Madrassah education is enough for them, though there are still others who come for higher education. But of late years

Muhammadans seem to be taking more to English education and sometimes after passing the Madrassahs they join the general institutions with a view to equip themselves with knowledge. It is not a question of duty and is altogether foreign to the point, and therefore I do not reply to it. I honestly believe that if Government help the cause of Maktab and Madrassah education it is not because it has anything to do with communalism, far from it. If Government believed that this was due to communalism, they would never do it. You may seek to introduce any system of education, English or Bengali, but for a particular community an oriental education is suitable, for example the Sonthals and other backward classes, other than those who want to come into the general line of education. This system might have to be adjusted to suit the particular community. (A VOICE: What about Hindus?) I do not think that Government are not looking after Hindus. Muktab education is a special class of education and I believe Mr. Nag will admit that European education is also a special subject. If that be so, there is no reason why education suitable to Muslims will be looked at by some as communalism. If later on Hindus become so backward as not to be able to participate and take advantage of the system of education, Government will no doubt see to it if necessary. There is only one other point and I have done.

Dr. NARESH CHANDRA SEN GUPTA: Is it relevant? No one has said that there should not be a system of education suited to the Muhammadans. Mr. Bannerjee has not said this and I submit that it is not relevant.

Mr. PRESIDENT: How can you say so? The communal question was raised in several speeches and I think the Hon'ble Minister is justified in trying to meet the points that were raised in connection therewith.

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: I have only one point more to answer. Mr. Abul Kasem at last realises that the only point of view from which this resolution should be discussed is whether there is any necessity for these officers. All other questions are foreign to it, and I believe my friend will agree that in this House it is not possible to discuss the detailed working of any system. You can only discuss the question in a general manner. My friend has admitted that these officers have done useful work.

As I have said, there is only one point to answer and that is that the appointment of these officers was made on communal grounds. But it is far from it. Mr. Taylor was the first incumbent of this post; thereafter he was succeeded by several others who were not Muhammadans and if a competent officer is found, the post will be his, and it will not be the particular preserve of any particular community. So

long that has been the policy. Of course, by the nature of things, it may be possible to consider that a Muhammadan who is the best in the education line is suited for the purpose because he brings sympathy and interest on the work. It is not a question of discredit to others but only a question of human nature. I do not think I need say more in view of the fact that my friend is prepared to withdraw his resolution, and I hope the House will give its permission.

Maulvi Abul Kasem's resolution was then, by leave of the Council, withdrawn.

Administration of Co-operative Department and appointment of officers therein.

Mr. NARENDRA KUMAR BASU: I beg to move that this Council recommends to the Government to appoint a committee forthwith consisting of a majority of non-officials to enquire into the administration of the Co-operative Department and the appointment of officers therein.

In the order paper it is stated that this is a resolution on matters of general public interest. In my submission there is no question to-day which is of more general public interest and importance than the question of the administration of the co-operative societies in Bengal. The co-operative system was introduced in India a little over 30 years ago with the highest hopes. It was expected that by this system the credit of the agriculturists in the villages would be raised, that thrift and self-help would be encouraged and that the agriculturists in rural areas would be helped to rise from that morass in which they find themselves. But what has been the result of the last 30 years' administration of these societies? I am afraid that even the most hardened optimist will have to say that the result has far belied expectations. And why? In the last Government of India Report, or rather resolution, on the Provincial Economic Conference it was mentioned that in most provinces the co-operative movement is in difficulty and in several cases the difficulties give cause for anxiety. As far as Bengal is concerned I shall just proceed to inform the members of the House what the difficulties created by the administration of the system are. I am extremely sorry that on account of the efficiency of the particular department of Government no figure is available to the members of the House after March, 1933! The last report that was issued was up to March, 1933. For the last two years and more no report has been issued, and I doubt not that when these figures become after all available to the public they will show that the condition of things has gone from worse to worse. Even with these two-year-old figures, Sir, the House will realise the importance of the problem even from one figure that I want to quote from this report here: that the overdue loans of these co-operative societies on the 31st March, 1933, was Rs. 3,46,59,000

and odd. So far as the agricultural credit societies are concerned, the percentage of collections for the four years ending 1933 are—

	Per cent.
1929-30	29·2
1930-31	14
1931-32	10·8
1932-33	8·4

and I doubt not that on the 31st March, 1935, it is 2 per cent. or something like it. Now take the case of overdues for those four years ending March, 1933—

	Per cent.
1929-30	34·4
1930-31	39·8
1931-32	56·3
1932-33	68·3

If you take the number of societies liquidated, you will find that it has gone up from 600 to 1,200. If you take now the central banks which are really almost the pivot of the system, you will find that there are 119 central banks in the province. They are supposed to supervise the work of the rural societies, as you know. The toal profits on paper of the central banks for the year 1932-33 were Rs. 44,88,000 and their total disbursement was Rs. 37,44,000. Members of the Council and you, Sir, would naturally think that these central banks therefore made an actual profit in the gross of over Rs. 7,00,000, but there is a tremendous but and with a big capital B. Of the total profit of Rs. 44,88,000 the amount actually received by these central banks was Rs. 15,37,000; they spent Rs. 66,77,000 in disbursements. That is the picture which this report presents before you. Well, it is trite knowledge that the central banks have not been able in many cases to give the depositors back their money. It is trite knowledge also that these banks—both central and the rural credit societies—have given credit where no credit ought to have been given and that in spite of the economic depression which is made responsible for all the evils under which everybody and every department of Government are suffering from—I say that in spite of the economic distress—if there were some inspection of these central banks and societies, if they were properly looked after by the department, the position would not have been so hopeless as it is now. It will be news to the members of the House, and I think it will be news to the Hon'ble Minister himself, if I say that in the archives of the department in Writers' Building there are bundles of reports on rural societies lying unopened from year to year. I shall ask the Hon'ble Minister to go and pay a visit to the department and see whether my statement is correct or not. We all know that several central banks have suffered enormous losses on account of defalcations and this in spite of the audits made by the department.

How is it possible for these defalcations which have extended over a series of years to remain undetected? In one individual case that I know of it could not possibly have remained undetected if only the bank books of the central bank in its account with the provincial bank had been examined. But even that was not done. That is the sort of audit of the central banks that goes on. That is also the case with the rural banks which are supposed to be supervised by auditors appointed by the central banks. There are 23,634 rural banks and the central banks appointed 609 supervisors. So 36 banks are to be audited by each supervisor. I submit that it is not humanly possible. I think the number of supervisors ought to be increased in all conscience, but that cannot be done because they are not properly paid and there is absolutely nothing that these supervisors can look forward to in the future. Superior to these supervisors, appointments of auditors and inspectors are made, but there is no promotion for the supervisors. These auditors, one should think, ought to be men with some knowledge of mathematics, company law or at least of accounting, but what do we find? We find that outsiders, under-graduates, matriculates, and people who are not even matriculates are appointed straightaway as auditors and inspectors. And there is no recruitment from the rank of these supervisors. I submit that is another thing that ought to be done.

With regard to the difficulty of realising dues from the persons to whom credit has been given, I have already indicated several ways by which this difficulty has been created. The directorate of these banks is under the direct supervision of the Registrar who is there to register and also to give decrees about the by-laws which these banks have got to register. The Registrar keeps looking on while the directorate is made to consist of people heavily indebted to these banks; they are retained by means of these by-laws and by means of the permission given by the Registrar for people to continue from year to year, while the people whose money is there are kept out and the men who are heavily indebted to these banks fill the boards of management of these banks. What else could we expect? This department has been, as I have said on previous occasions in this House, the department which is least cared for by the Government. I do not want to use harsh words, but since the Registrar, who was in charge of this department before the present incumbent, fell ill and was conveniently made to take leave for short periods, they pitchforked his Personal Assistant to the post—a man who neither by training, nor by education, nor by capabilities could possibly have been thought fit to fill the post. In spite of protests from several people in this House, this was made as a sort of family arrangement, and as I pointed out on previous occasions, the Co-operative Department became a department-in-law of the Bengal Cabinet.

Mr. PRESIDENT: What do you mean by that? I think you had better withdraw that.

Mr. NARENDRA KUMAR BASU: This reminds me of a story, Sir. However, if you direct me to withdraw, I will do that, but I hope if you will permit me to explain it, you will allow it to remain.

Mr. PRESIDENT: You cannot deny that you have introduced personal elements into the debate which I cannot allow.

Mr. NARENDRA KUMAR BASU: Very well, Sir. Under your direction I withdraw it, but I do say that it is scandalous that people who are related to high officials in the Cabinet, that being their only qualification, should be pitchforked into the post. I submit that that is the way in which the appointment was filled up, and I saw in the papers the other day what I took to be an official communiqué that the Government itself find that the department has got into such a position that it has got to be extricated from it and, therefore, they have appointed a highly paid civilian as Additional Secretary in charge of the department in the person of Mr. Porter and that they are going to appoint another I.C.S. officer as an understudy as Deputy Registrar for the present, thus increasing by one stroke of the pen the expenditure of the department by about Rs. 50,000 a year. This department is a bankrupt department which, in the interest of the country, ought probably now to be liquidated at once. Most of these banks are to be kept open and the department is to be kept open—I do not know for whose benefit—and this huge sum is to be spent by Government. I submit that when Government themselves are appointing these two new officers, they are virtually accepting the trend of my resolution. They are holding an enquiry into the administration and the personnel of this department, and I hope that the House will unanimously support my resolution that a committee be appointed consisting not of these two European I.C.S. officers alone but of a majority of the non-official members of this House.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir. May I at this stage move resolution No. 28 as an amendment to this motion?

Mr. PRESIDENT: It is not possible. If you like you can speak on the motion now before the House.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I take my stand to support the resolution so ably moved by my friend Mr. Narendra Kumar Basu. We have gathered by this time that the administration of the Co-operative Department is not as it should be and we have also gathered that there is something rotten somewhere in this administration. The officers who carry out this administration are not in most

above reproache It is an admitted fact that they lack in training and efficiency and their appointment depends not upon merit as should be the case but upon many other things which cannot be tolerated much less encouraged any further. Sir, it is a matter of surprise that the co-operative movement which is a recent development of modern times is making no progress worth the name in our country. Why do we fail, while the other countries succeed. There must be a loophole somewhere and Mr. Basu is out to point out that loophole and he has practically done so. I admit that there is a good deal of washing of dirty linen before us, but how can we help it? Unless we know the disease, we cannot cure it.

Mr. PRESIDENT: I do not understand what you mean.

Rai Bahadur SATYENDRA KUMAR DAS: I am supporting Mr. Basu that the present officers who carry on the administration of the department are not efficient.

Mr. PRESIDENT: You have certainly gone much beyond that without adducing any proof whatsoever.

Rai Bahadur SATYENDRA KUMAR DAS: The facts have already been supplied by Mr. Basu, and I want to say something about defalcations

Mr. PRESIDENT: It is absolutely necessary that when a member brings serious charges against public officers, he should feel sure about his mind that he possesses sufficient facts to substantiate those charges. One should not do so lightheartedly.

Rai Bahadur SATYENDRA KUMAR DAS: I bow down to your ruling. I will simply say that it is really a matter of shame to us that we fail when we are allowed to exercise power and discretion in matters which primarily concern not the Government but the people at large, I mean the co-operative movement. This failure gives an opportunity to the Government to say that we are unfit for self-government. I know that to cure this maladministration a check of some sort is necessary and that check would naturally involve the interference of the Government authorities, and in doing so the spirit of self-government would be killed. Thus, moving in a vicious circle we will have to surrender our right of self-government to the authorities. Who is responsible for it? Not the Government at least in the present case, but we ourselves are responsible for it. So, it is high time that the administration of this department is brought back into the right path by the appointment of efficient and honest officers to carry on the administration of this department.

Babu JITENDRALAL BANNERJEE: Sir, the weakest part of Mr. Narendra Kumar Basu's argument, with whose general statements I am very much in agreement but from whose conclusions I very much disagree, was the unjustifiable attack that he made upon the present Registrar. A mere comparison of dates will be sufficient to prove my point. His attack upon the department was based upon figures, but all those figures related to years before March, 1933. The present Registrar did not come into office before 1933. Mr. Basu has not given the figures for 1934 or 1935 when the present Registrar was in office; and to saddle one man with charges and delinquencies for which he is by no means responsible is certainly unfair. I do not deny that there are glaring defects in the working of the Co-operative Department; but they are all defects, due not to maladministration but to the fearful economic depression prevailing in the country. Before 1933 there were brilliant men in charge of this department—men like Rai Bahadur Jamini Mohan Mitra; a better officer there was none. He was succeeded by Rai Bahadur Sushil Kumar Ganguly, another brilliant officer, none more acute and subtle than he; and yet all these defects had been accruing during and from before their time. It is only within the last two years that a determined effort is being made to put an end to them, and I hope the present Registrar, Mr. Arshad Ali, will succeed in his endeavours. He deserves our help and co-operation; he does not deserve to be maligned and villified upon groundless and untenable charges. I am free to admit that the figures given by Mr. Narendra Kumar Basu are correct—those figures about dwindling collections and realizations. But his conclusions are hopelessly wrong—they show that he knows nothing of the principles of co-operation or the machinery of the Co-operative Department. He says that the collections from the primary societies have been dwindling from year to year. In the first place, these collections are made, not by the department but by the central banks; and if you blame anybody, you must blame the central banks. But why have the collections been getting less and less? Not because of departmental inefficiency, but because during the last few years there has been an abnormal fall in the price of food-crops. Bengal has been wallowing in a morass of financial stagnation; collections have necessarily been dwindling more and more, and many of the societies have been forced to go into liquidation. If the law had been strictly enforced, as Mr. Basu apparently wants to have it, strictly 90 per cent. of the societies would have been compelled to go into liquidation. This would have meant the bankruptcy of the whole province and the world agricultural population. It would have meant the selling up of thousands of homesteads and driving the whole peasantry into desolation. Does anybody want that? Does Mr. Basu himself want that? I am connected with a central bank which is one of the most solvent banks of the province and which guides the activities of 400 primary societies. If the law had been

strictly enforced, three-fourths of these societies would have been compelled to go into liquidation; and if 350 of these societies had been compelled to wind up, it would have meant misery and distress for the whole population of the Birbhum district. Similarly, if the co-operative societies of other districts had been forced to go into liquidation, it would have meant ruin and misery for the whole of Bengal. Is that to be done in the name of financial purism? No conclusion, Sir, could be more absurd and fantastic than this.

As regards one point of the mover's contention I am fully in agreement, viz., that the department is hopelessly understaffed. In the MacLagan report, upon which the co-operative movement rests, it was suggested that there should be one Inspector for each group of 200 societies and that there should be one Assistant Registrar for 1,000 societies. But have these recommendations been carried into effect? They could not be carried into effect owing to the financial stringency of the Government of Bengal; and it would be useless to blame the Co-operative Department for a fault over which they have no control

In this connection I should like to refer to another point where Mr. Basu seemed to contradict himself He said that the department was understaffed and at the same time he complained that people had been appointed as understudy of the Deputy Registrar and a high-placed civilian had been appointed to assist in the running of the department. But, Sir, if the department is understaffed, these appointments are not simply justified, they are necessary and essential. The present Registrar has submitted a scheme, so I understand, involving an expenditure of Rs. 3½ lakhs for improving the staffing of the department; and if that scheme is sanctioned, this particular defect at any rate will certainly be remedied

Khan Bahadur MUHAMMAD ABDUL MOMIN: How do you know?

Babu JITENDRALAL BANNERJEE: It is one of our expectations; we cannot predict. But I believe it is matter of common knowledge that a scheme like that has been submitted before Government and is pending consideration. The real difficulty, the primary curse, under which the co-operative movement labours in Bengal is that it was originally organized on a capitalistic basis. In the case of the central banks, rates of interest as high as 8 per cent., 10 per cent. and 12 per cent. were fixed for the purpose of attracting money; and this money was lent to the primary societies at rates of interest varying from 15 to 18 per cent. As was to be expected, money poured in abundantly in response to such lucrative rates of interest; it was advanced recklessly to the primary societies; for a time there was a great show of activity everywhere; and we are now suffering from the

cumulative evils of a period of reckless enthusiasm. These evils occurred between 1912 and 1920; and it is certainly a point to the credit of the present Registrar that he persuaded almost all the central banks to reduce their rates of interest. In the case of the central banks a reduction has been effected to the extent of 3 per cent.; and there has been a reduction of between 4 and 5 per cent. in the case of the primary societies. This point must certainly be counted to the score of the present Registrar; and we should remember it in assessing his conduct while in charge of the department. The remedy suggested by Mr. N. K. Basu is the appointment of a committee; and here I beg wholly to differ from him. We have had too many committees in the past; in fact, this department has been suffering from a plethora of committees. There was first of all the MacLagan Committee; then the Royal Commission on Agriculture which went into the working of the co-operative banks very thoroughly; and then the Banking Enquiry Committee which also dealt with the co-operative societies. After that, there was the report of Mr. Nelson who dealt with one aspect of the matter; and then quite recently, there has been the enquiry of Mr. Darling, a Special Officer from the Government of India. In fact, there has been no lack of enquiries, ideas and suggestions. The archives of the Government are full of suggestions; and the only thing necessary now is to put these suggestions into practice —a thing that the present Registrar is strenuously attempting to do. Strengthen his hands if you will, and don't handicap him by reckless criticism. On the other hand, if you appoint a committee—even a committee of experts—what will happen? The improvements that have been initiated will all be hung up, perhaps hung up indefinitely. Therefore, if the object of the mover is to secure the welfare of the department, he will withdraw his motion and not press it to a vote. The effect of an adverse vote will not be an improvement in the working of the department; it will rather hamper the work of the department by preventing wholesome measures of reform from being inaugurated and carried into effect.

Babu KHETTER MOHAN RAY: Sir, in rising to speak on the motion of my hon'ble friend, Mr. N. R. Basu, I feel that Mr. Basu has narrowed down the scope of the enquiry into the manner in which the Co-operative Department of the Government is administering its duties and also about the appointment of officers made therein. It is a pity that Mr. Basu has not asked for an enquiry into the working of the co-operative movement ever since its inauguration in this province after the passing of the Acts of 1904 and 1912. Great hopes were raised when this movement was launched in the country. The Agricultural Commission of 1928 truly observed:—

"If the co-operative movement fails, with it will fail the best hopes of India."

Thirty years of experiment have failed to achieve its object in this country except in a few progressive provinces—provinces such as the Punjab, Madras, and Bombay.

In Bengal Agricultural societies have been formed as primary societies. These societies are in need of being helped, financed, and supervised by outside institutions. Hence, some federal bodies known as the central co-operative banks, with the primary societies as their members, were formed. At the head of these societies and the banks as the apex bank of the whole co-operative organizations, stands the provincial bank, which is the supreme institution to guide, help, and finance the central banks and societies. Thus, we find primary societies, or village societies as they were popularly called, central co-operative banks, and the provincial bank, the co-operative department of the Government—all these together constitute the main structure of the co-operative movement in this country.

Now, the demand for enquiry into one of the institutions of the co-operative movement in the country, viz., the Co-operative Department of the Government, will be of little benefit to the movement in the absence of an enquiry into the working of the whole co-operative movement. After thirty years' experiment, the time has come to take stock of the working of these co-operative organizations as a whole. The Government should cause an enquiry to be made as to whether the co-operative institutions have been placed on sound business principles, regard being had to the customs and usage of the country, habits of life, and economic condition of the country. No such enquiry is demanded by this resolution, but it is directed against a part of the whole of the co-operative machinery set up by the Acts alluded to above.

Sir, as far as I have been able to gather from the speech of my hon'ble friend, three principal charges have been made by him against the Co-operative Department. Firstly, of late, collection of dues has considerably fallen. Secondly, repayment of loans have correspondingly fallen. Thirdly, during the last few years some embezzlement cases have cropped up. Sir, with regard to the first and second charges, I beg to submit that the co-operative organizations, such as the primary societies and the central banks, have been affected by the economic depression through which our country has been passing for the last five years. I know of no institutions, credit or otherwise, which have not suffered from the economic distress. If, owing to economic distress of the country, these co-operative banks and societies have failed to realize sufficient amount of their dues, and in consequence, have not been able to repay sufficient amount of loans, as they ought to have done in normal times, is the Co-operative Department to blame for it? In this country, every institution, every bank,

money-lenders, landlords, etc., have been experiencing great difficulties in realizing their dues in the rural areas. Even the Government with powers of certificate are experiencing difficulties in realizing rents from the tenants of the *khas mahals*. It is no wonder that the co-operative banks have not been able to collect their dues properly and sufficiently. As regards the embezzlement cases, I may be permitted to point out that there were many cases of embezzlement in the great treasuries and other institutions. These treasuries and institutions are in charge of, or supervised by, high Government officials, and they are periodically audited by the Government auditor. In spite of strict supervision and auditing, defalcations have occurred in the Government institutions. Was there any enquiry demanded into the administration of the Treasury Department or any department of the Government with which such institutions are connected? No useful purpose will be served by the appointment of a committee to enquire into the administration of the Co-operative Department. I may, in passing, say a few words to the big embezzlement that took place in the Comilla Central Co-operative Bank. This embezzlement was, as in all other cases, detected by the officers of the Co-operative Department.

Mr. NARENDRA KUMAR BASU: After how many years?

Babu KHETTER MOHAN RAY: Only after some months.

It may be noted that the detection of all cases of embezzlement was made by the Co-operative Department officers though there are local non-official agencies for supervising the central banks. The Hon'ble Minister, and the then Registrar (Rai Bahadur S. K. Ganguly), by tactful and careful handling of the matter had, after all, succeeded to realize back almost the entire money embezzled from the culprits. It must be said to their credit that in such trying circumstances, they did not lose their heads and take drastic measures; but they proceeded cautiously and examined the whole situation carefully and after all found means and ways to compel the miscreants to refund the money to the bank. (MR. NARENDRA KUMAR BASU: Was the money recovered?) Yes. Thus they saved the Comilla Central Bank and the co-operative movement in the district. Had they taken any hasty steps, the money and with it the bank would have been lost. We cannot blame the Co-operative Department of the Government for not having started criminal prosecutions against the culprits. In the circumstances of the case, the Government acted wisely by refraining from prosecuting the people who embezzled the money, for the welfare of the Central Bank concerned the co-operative movement.

Now, I have come to the question of the appointments made in the Co-operative Department. Recently, the Government have strengthened the department by appointing one of its ablest officers as Secretary to

the Co-operative Department. Mr. Porter, with his wide experience of the country as the Census Superintendent and also as District Magistrate, will be able to infuse new life into the working of the co-operative movement to the benefit of the people. I have every reason to believe that under his able guidance and direction, the co-operative movement will thrive and prosper—materially advancing the cause of the agriculturists for whose benefit the co-operative movement has been inaugurated.

Here I should like to say that the Maclagan Committee, the Royal Commission on Agriculture, the Bengal Banking Enquiry Committee, Mr. Darling's examination of the co-operative movement in Bengal, have already pointed out the defects and shortcomings of the co-operative organizations. I understand that the Government have already considered the recommendations of these committees, etc., and are about to carry them out in action without any delay. If any new committee is appointed, it will only delay the carrying out of those recommendations to a year and a half. We ought to remember that in these days of distress, people have become very panicky about the credit institutions of the country. If anything is said or done which is calculated to shake the confidence of the people in the credit institutions, it may endanger these institutions.

Sir, in this view of the matter I do not see any necessity for the appointment of any committee to enquire into the administration of the Co-operative Department

With these observations, Sir, I oppose the resolution of my hon'ble friend Mr. Narendra Kumar Basu

Mr. A. F. M. ABDUR-RAHIM: Sir, I oppose the resolution moved by Mr. N. K. Basu. He has suggested an enquiry into the administration of the Co-operative Department. Sir, I do not know how the enquiry at this stage will facilitate the work of the department. The present economic crisis has affected the members of the co-operative societies very much, because the bulk of the clientele of village societies are men of very moderate means and they live on agricultural produce. The chief difficulty that is experienced in the co-operative movement now is collection from the societies and for that the proposed committee will be of very little help. All that is necessary is the increase of price of the agricultural produce and economic revival of the country and for that purpose the Board of Economic Enquiry is in work and let us see its result.

Sir, the co-operative movement of this province came into existence so far back as 1904 and since then the movement is being run by the non-official agencies and by the working of this long period the defects of the movement has already been detected and to remedy that the

Co-operative Department are doing all that is possible. From 1913 to 1934 the department has issued as many as 300 circulars and various other periodical instructions containing valuable suggestions for the efficient management of the movement. The present Registrar, Co-operative Societies, Khan Bahadur A. M. Arshad Ali, has taken up several schemes to bring out the movement from its present bad plight, such as policy of consolidation, better organisation, relief of indebtedness of the members, new development of the movement, training of departmental, central bank staff and the members of the co-operative societies in the co-operative principles.

But, Sir, as we have seen whenever any committee is appointed to enquire into the workings of a particular department unless the work of that committee is finished further progress of the department is brought to a standstill. Sir, I think by the proposal of this enquiry there will be no good done to the movement; on the contrary the line of action taken by the Registrar, Co-operative Societies, will receive a great setback. With many a central bank it has been very difficult to maintain the cordial relations between the depositors and the banks with regard to regular payment of interest and refund of matured deposits, but by the tactful handling of the situation by the present Registrar of Co-operative Societies in the majority of cases the rates of interest of deposits have been reduced from an average of 7 per cent. to 4 per cent. and thereby helping the central banks to balance their budget. About two-thirds of the capital invested in the central banks have been drawn from outside depositors

Sir, I do not think enquiry at this stage will be of any help to the co-operative movement, rather it will do more harm to the movement by the spread of many wild rumours With these few words I oppose the resolution.

Dr. NARESH CHANDRA SEN GUPTA: I agree with Mr. Khetter Mohan Ray to this extent, Sir, that the scope of the enquiry of the committee suggested by Mr. Narendra Kumar Basu might have been wider. This matter was included in the resolution of which I gave notice, but I take it that even within the wording of this resolution it is possible to have a committee which will go into the whole question of co-operative societies. Sir, it is common knowledge, notwithstanding the fact that we have not the reports of the current year or the year before before us, that for some time past co-operative societies have been almost on the verge of bankruptcy. No doubt this crisis has been brought about very largely by the economic depression all over the country, by the writing-off of the wealth of the country by the general reduction in the price of commodities. No doubt that is so, but my complaint is that when that situation arose there was call for a great imaginative programme of action for relieving

the people and helping the province out of bankruptcy, and in that work the co-operative movement had a great mission to fulfil. If the Government of Bengal and the department in charge of co-operative societies had risen equal to the occasion, if they had found out a means for adequately financing these societies and creating a new organisation, they would not only have helped the people out of the difficulty, they would not only have rehabilitated the co-operative societies, but they would have done a lasting service to the people of the province in eliminating or at any rate impeding the effects of capitalism. But that has not been done, and even to-day when we ask the Government to have an investigation into the working of the Co-operative Department with a view to finding out its defects, and possibly its line of attack, we are told that there is nothing to be done My friend Mr. J. L. Bannerjee has held up before us a dreadful picture of the consequences of carrying into effect the resolution of Mr. N. K Basu. I am afraid he has misunderstood Mr. Basu, but I will not deal with this point at present. So far as the question of the delay of reforms on account of the appointment of a committee is concerned, I fail to see the point in it. Government have investigated the question relating to co-operative societies, have found out certain defects and have before them certain proposals for immediate action, but the appointment of a committee need not stay their hands Let the Government go on with the reforms they have already determined upon, but the committee might help them to go further There can be no question that the present organisation of co-operative work in the province is hopelessly deficient My friends before me have already pointed this out Apart from the question of personnel, the staff is hopelessly inadequate for the purpose of coping with the present problem of co-operation, and more hopelessly inadequate for the purpose of giving to the co-operative movement the expansion that is necessary in order to meet the economic problem before us. That is a question which has got to be investigated, and for that purpose we have to visualise the extent to which the co-operative movement might grow, and to which we might develop it, and the way in which we might find finance for the purpose Money is essential if we are to have a properly organised co-operative cycle in the whole province. Sir, this question has been discussed in the past and several suggestions have been made. I have in mind particularly a suggestion made by Sir Daniel Hamilton, one of the pioneers of the co-operative movement in Bengal—a man who had by word and deed done more for the co-operative movement in Bengal than any single person. He has come forward with proposal after proposal for the proper development of the co-operative societies in Bengal, and he even succeeded in getting a grant from the Government of India earmarked for the purpose. But the Government of Bengal simply sat upon the proposal, discussed and cogitated upon it till the year was out and the money went out of their hands. It is possible to have a co-operative organisation which will

secure success to such an extent that on the security of the ultimate wealth of the country Government might be able to raise money by loans. Other provinces in India have borrowed money from the Government of India for productive purposes like irrigation, and those provinces are getting the full benefit of that. The province of Bengal has not yet thought of borrowing for any other purpose than that of paying the salaries of its officers. Why should not the Government of Bengal put forward a loan proposal by which the co-operative programme could be financed? The reason is that they have no faith in themselves, they have no confidence in the possibilities of co-operation and confidence in their capacity for organising the co-operative movement in such a way that the return of the money is assured. It is possible to have such an organisation. It has been suggested, Sir, that the difficulty of these co-operative societies in realising their debts from the members has been great owing to the great financial stringency; that is so, but why? During this period of great economic distress, I had the honour to pay a visit to Goshaba—the *zemindary* of Sir Daniel Hamilton. I examined the books of the co-operative societies there and you would be surprised to hear that in that year when every *zemindar* and *mahajan* in Bengal was crying out about want of realisation, at Goshaba the co-operative societies had not more than two defaulters out of 70 debtors in one co-operative society. How was it achieved? It was achieved by a complete co-operative system, a system by which a complete cycle was established between the central bank and the credit societies, the sale societies and the rice mills. The money circulated from one to another, and the necessity and regularity of payment was assured. I do not pretend to say that exactly what has been done by Sir Daniel Hamilton at Goshaba can be reproduced elsewhere, but I certainly feel that it is possible to produce an organisation with sufficiency of funds by means of which it will be possible to be as certain of getting a return of money as by any other system, and the Government can proceed to borrow for the purpose of financing the co-operative movement. Without throwing more money into the co-operative movement, you cannot take it very much further, and the societies cannot do more or better than they have done without more money to compete against the moneylender. As a matter of fact, there is hardly any real co-operative society in Bengal. So far as agricultural societies, rural agricultural societies and central banks are concerned they are between them merely money-lending organisations. It would not do to keep the co-operative movement going on that footing. So long as you go on doing that, you must suffer the fate that has overtaken you at the present moment. You have got to bring the co-operative movement down into the production and distribution of wealth, and it is in that way that you will be able to establish a co-operative cycle which would enable the whole financial position of the province to be placed on a perfectly sound footing. It

is time that we gave thought to this aspect of the matter. When Rai Bahadur Keshab Chandra Banerji on my behalf made suggestions on similar lines some time ago, the Minister in charge of Agriculture was apparently frightened by the spectre of the Soviet. He thought that all these might do very well in Soviet Russia, but it would be quite out of place in Bengal. But I want him to bear in mind that if he wants to make the co-operative movement a success in Bengal, a real co-operative movement, instead of the sham that it is, then he has got to proceed on these lines.

The working of the Co-operative Department has been attacked by my friend Mr. N .K. Basu on account of some of the scandals, which he has related, on account of the inefficiency of the staff employed and such other grounds. But I would go further. The fault lies in the entire system, in the entire organisation. The organisation has got to be remodelled altogether; it has got to be turned upside down. It won't do to let loose on these co-operative societies untrained workers, workers not initiated either into the mysteries of the economics of co-operation or into the intricacies of its mathematics. Co-operative workers require specific training and it was an essential feature of the scheme of Sir Daniel Hamilton that an institute should be started in Bengal for the training of co-operative workers, who would go about as missionaries of co-operation all over the province and then go into service of Government as co-operative workers. We want this sort of institute and this sort of trained men and not only that; we want also that the people in the Co-operative Department from the top to the bottom must be imbued with a great deal of imagination. The great thing lacking in the co-operative movement in Bengal in recent years is imagination. It is too wooden, too inexpansive, too incapable to meet any emergency that has got to be remedied. You have got to have at the top men who are above everything, men of ideas and also men who are men of action.

(At this stage the member having reached the time-limit had to resume his seat.)

Babu JATINDRA NATH BASU: Mr. Narendra Kumar Basu in bringing this resolution before the House has repeated the complaints that have been discussed in the central conferences of the co-operative societies of all the provinces in India. They are no new complaints. In fact, such complaints are not peculiar to Bengal; they have been made with greater or less intensity in regard to co-operative societies working all over India. Having regard to the discussions that have been held, the Governments of the different provinces have taken steps to remedy the defects that have been pointed out from time to time as also defects which they themselves have found out in course of their

experience. The Government of Bengal in the same way as the Governments of some other provinces have come to the decision that an alternation in the co-operative law is necessary so far as the working of this movement in this province is concerned. The complaints regarding the co-operative movement, if Mr. Basu pushes his investigations further afield, will be found not to be peculiar to Bengal alone, or even to India alone. They are widespread all over the world and because they are so widespread they must be tackled. Mr. Basu has afforded an opportunity to Government to state as to how the question is being tackled by them here.

A complaint has been made in the course of the speeches to which we have listened this evening, that the co-operative movement is in fact nothing but a money-lending organisation and not a real co-operative organisation. I believe that anyone who knows intimately the actual working of the co-operative societies from top to bottom will find that co-operative societies not only in India but almost all over the world have during the last 14 years had to go through most difficult and peculiar circumstances. The money or the resources which have to be collected in order to help the people of the province have to be collected from members of the societies and from depositors. In order to obtain money from depositors, you must follow the trend of the market and you cannot obtain money at a rate of interest lower than that of other business organisations in the course of their business transactions. From 1920 onwards the market rate of interest has varied considerably and the co-operative movement in order to obtain adequate finance for its working had to pay high rates of interest, and as Mr. J. L. Bannerjee stated and complained, central societies had to lend money at a rate of interest which they would never have asked had they not to pay a high rate of interest for the money which they made available for the ultimate consumers. That is a circumstance for which the Co-operative Department is in no way responsible. That is a problem that has baffled financiers all over the world; and it has baffled the endeavours of the Co-operative Department in this country as well.

So far as the adequacy of the staff is concerned, Government has been taking steps to increase and reorganise the staff. In Bengal we had to pass through a specially difficult time as Mr. N. K. Basu knows so well, owing to the way in which the operations of the Jute Sale and Supply Societies resulted about six years ago. That was a great difficulty to be tided over, and I must say that the department has been doing its best to tide over the difficulties and to make up the lost ground. Within the short time that has elapsed it has actually made great headway in making up what was lost. The present administration is in no way responsible for what happened in the past. So far as the present administration is concerned I may inform Mr. N. K.

Basu, having something to do with the co-operative movement in this province, that I have found the head of the department, namely, the Registrar of Co-operative Societies, and his staff most ready and willing to assist in the work of co-operative organisation. Whenever they have been asked to visit any central bank regarding the working of which there have been doubts in the mind of the provincial bank we have never found the Registrar personally and his staff unwilling to immediately visit those banks and to try to infuse life and business methods into their working; and I may say that they have succeeded to a large extent. One of the difficulties, as Mr. Bannerjee pointed out, was the rate of interest these central banks had to pay to their depositors, and this made it extremely difficult for them to reduce the interest to those who availed themselves of finance from them. I know personally, that the Registrar has left no stone unturned to go about from district to district, and has done his best to induce these central banks to reduce their rate of interest on deposits with the willing co-operation of the depositors. That required an amount of energy and an amount of tact for which we should be thankful to the Registrar and his staff. It is no use maligning public officers because there are defects in a certain department; but their day-to-day working should also be remembered by us and we cannot forget the earnest work and sometimes most laborious work that is done at considerable self-sacrifice by the head of the department and by those who are trying to infuse life and prosperity into the movement. I am sorry that Mr. Basu in trying to bring an important proposition before the House deviated into personalities. But as he has withdrawn them, I do not wish to refer to them, but I will only say this, that, before indulging in such personalities he should have thoroughly acquainted himself with the work that the Co-operative Department has been doing during the past one and a half or two years in referring to the shortcomings of the department. If Mr. Basu had seen the circulars that the late Registrar, Mr. S. K. Ganguly, had circulated, and that the present Registrar, Khan Bahadur Ershad Ali, has been circulating among the co-operative societies in Bengal, he would have found that the improvements that he indicated, leaving it to the committee that he suggested to investigate into the matter were aimed at by these very circulars and that many of his complaints have been adequately met by those circulars and that with the staff at the command of the Registrar the best that can be done is being done. I believe that the staff of the department has not been remiss in performing the great public duty with which they are entrusted. The co-operative movement in Bengal as in almost all the provinces in India has worked under a great difficulty due to a sudden expansion of the movement; the number of societies grew up very rapidly at a rate that was not anticipated, and their number is so large now that the time has come for the work of consolidation. The spirit has been roused, and now is the time for consideration. Mr. N. K. Basu

probably knows that there is a co-operative organisation society which is not a Government body but which tries to teach people the ideas and principles of co-operation and the methods of co-operative organisation. It is helped by Government undoubtedly as it ought to be, and it has been doing its best not only by sending lecturers into the interior to teach people as to what they should do in connection with co-operative organisations, but it has also been assisting in training workers for actual co-operative work. Sir, besides the co-operative organisation society there are conferences in many districts in which representatives of all the village societies come and there are discussions in which the state of affairs and the relation of the village societies with the central banks and the general scheme of co-operative work in the districts are discussed. In many of these the Registrar attends personally. I had occasion to attend a conference in one of these districts. In these conferences various views and sometimes very extreme views are expressed, and I may tell you that in tackling them the Registrar shows a sense of practicability and tact which ultimately induce these societies to come to a workable scheme and agree to a system which will be of assistance to them without breaking up the whole system. In this province the Government has come forward to assist the co-operative movement. Some years ago when there was a likelihood of difficulty, the Government came forward by guaranteeing cash credit to the extent of Rs. 30 lakhs. Luckily that guarantee has not been availed of. The Government has decided that the land mortgage scheme by which the liquidation of heavy indebtedness may be spread over a long term——

(At this stage the member having reached the time-limit had to resume his seat.)

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: Sir, I have little more to say regarding the details of the working of the co-operative movement in Bengal after they have been so ably and clearly explained by Messrs. J. L. Bannerjee and J. N. Basu. Mr. Bannerjee who is an ex-Director of the Bengal Provincial Co-operative Bank and a Director of the Birbhum Land Mortgage Bank and Mr. Basu who is the elected Chairman of the Bengal Provincial Co-operative Bank have had unique opportunities to gather firsthand knowledge about the movement in the province and can certainly speak with authority unlike my hon'ble friend, Mr N. K. Basu, who, being a busy lawyer, can hardly be expected to devote any time to study the movement. I feel it necessary, however, to stress upon the fact that the appointment of a committee is not at all necessary at the present moment in view of the suggestions and recommendations already made by the successive authoritative committees who have investigated the problem in all possible details.

As far back as 1914-15, the committee on co-operation which was presided over by Sir Edward McLagan made an exhaustive enquiry into the working of the co-operative movement in India, and its report contains an authoritative series of recommendations to which little can be added usefully so far as the credit section of the movement is concerned. In recent years, the co-operative movement has formed the subject of enquiry by more than one committee. As recently as in 1928, no less an authority than the Royal Commission on Agriculture reviewed the working of the movement in India, pointed out the defects, and made valuable recommendations which have since been under examination by Government who have already taken such action as was possible on many of the recommendations. Subsequently, the working of the co-operative movement in Bengal was thoroughly investigated by the Bengal Provincial Banking Enquiry Committee, and their criticisms and suggestions will be found in their report. The Indian Central Banking Enquiry Committee took stock of the situation as recently as in 1931, in the light of the reports of the Provincial Banking Enquiry Committees, and recorded their observations and suggestions for the benefit of the movement.

The Registrar of Co-operative Societies examined the criticisms and suggestions of the Bengal Banking Enquiry Committee and have issued instructions with a view to the removal of the more important defects pointed out and the adoption of the main improvements as suggested by the committee. The more important recommendations have been accepted and incorporated in the policy of the Co-operative Department.

At the same time, Government have been fully alive to the fact that owing to the worldwide economic depression, the co-operative movement in this province has been naturally passing through a severe test during these five years or so. But not only has the movement in this province alone been affected, but the movement in almost all other provinces in India have also been more or less affected. They have been closely watching the working of the movement which also received the attention of an expert co-operator like Mr. M. L. Darling, who, as Special Officer of the Reserve Bank of India, visited this province, and acting on whose advice, the Government of Bengal have decided to take certain steps, and, in particular, to appoint a Joint Secretary of I.C.S. rank in the Agriculture and Industries Department whose main duties will be to concentrate on the work of the Co-operative Department dealing with larger questions of policy and who, unlike other Secretaries, will be a touring officer so that he may acquire a firsthand knowledge of the working of the movement in all its details. I shall thus have an opportunity of keeping myself in direct touch with the movement through the Joint Secretary. Government have also decided to appoint an additional Deputy Registrar from the I.C.S. rank to assist the Registrar in the administration of the department. And the

question of strengthening the subordinate Government agency in connection with the movement is also under the immediate consideration of Government.

The present economic distress has hit all classes of people in Bengal, but the hardest hit among them are those of small means who constitute the bulk of the clientele of the co-operative societies. The policy of the Co-operative Department in these circumstances has been directed more towards consolidation of the results so far achieved than towards an expansion of the movement.

The policy of consolidation has involved (*a*) a more extensive adoption of the system of monthly repayment of interest, (*b*) encouragement of subsidiary crops such as sugarcane, potatoes, etc., with a view to increasing the income and consequently the repaying capacity of the members, and (*c*) an investigation to pick out the wilful defaulters with a view to putting pressure on them to repay their loans.

It was felt that for the stability and success of the movement it was necessary to secure a more intimate contact of the departmental officers (who are expected to guide the movement) with the members of the village societies than had hitherto been obtained. To achieve this object, the area under each Inspector of Co-operative Societies has lately been divided into audit circles, consisting of 75 to 100 societies. Each circle has been placed under an auditor and constitutes the "co-operative administrative unit." The central banks have been persuaded to place their supervisors under the control of the Circle Auditors. The Circle Auditor will be responsible for the audit as well as for the supervision of the societies. He will keep a record of the economic history of the members of the societies under his charge. He will encourage the formation of an advisory body for his circle consisting of 9 to 15 members elected from the societies. He will be the *ex-officio* Chairman of this body, and it will be his duty to see that he gets the sympathy and help of this body in the working of the societies under him. It will be among his duties to promote the establishment of night schools for the elementary education of the members of co-operative societies and their children and of institutions for their medical relief.

Relief of rural indebtedness is a large question, a measure relating to which, it is hoped, will come up before the Council at no distant date. In the meantime attempts have been made by the Co-operative Department for its partial solution among the members of co-operative societies on purely voluntary lines. The task has by no means been an easy one. On the one hand, there was the reduced paying capacity of the borrowers with the debts and interest charges standing high in terms of commodity values; on the other hand, there was the high rate of interest on which deposits had been taken from the [illegible]

public. It was evident that a reduction of the rates of interest on loans and deposits alike would give a much needed relief. Conferences of depositors were accordingly arranged in a large number of central banks at which the difficulty of the members of village societies in repaying their debts punctually and in full if the present high rates of interest were continued was clearly explained, with the result that the depositors agreed to a reduction of rates by 3 per cent. from the average rate of 7½ per cent. As about two-thirds of the capital invested in central banks have been drawn from outside depositors, this reduction has been a great relief to the banks. Simultaneously with these efforts and as a corollary to them, a corresponding reduction of the rates of interest charged by the central banks to their affiliated societies and by the societies to their individual members has been effected. The benefit of these reductions will not, however, be given to defaulters.

Along with these reductions in the rate of current annual interest, it has been decided to make it easier for individual borrowers to pay their arrear interest by ten yearly instalments in the case of heavy arrears, and five yearly instalments otherwise. The arrear interest will bear no interest.

The present condition of agricultural finance has brought to the forefront the question of finding easy credit facilities in the shape of long-term loans on a reasonably low rate of interest. It has also been held that the existing central co-operative banks cannot cater for long-term credit and should henceforward confine their activities to advancing short-term loans only. A start has already been made for providing long-term credit facilities to agriculturists mainly for the redemption of old debts by the establishment of five *ad hoc* land mortgage banks, one in each division of the province. The capital necessary for these banks is being raised by the issue of debentures. Government have guaranteed the interest to the debenture-holders. If this type of banks thrive well as is expected, there is a prospect of their extension in the future.

On a scheme prepared by the Co-operative Department for reviving the handloom industry organised on a co-operative basis the Government of India granted a sum of Rs. 35,000 for the year 1934-35, and Rs. 80,000 for 1935-36. The grants are the largest given to any province in India for the purpose. It is proposed to utilise the grant in providing improved looms, dyeing appliances, warp preparation, sizing and calendering machineries to the various co-operative industrial unions in the province as also suitable expert staff for training the weavers in improving the quality of their finished products.

The Bengal Co-operative Organisation Society has started a training class at Calcutta for theoretical and practical training of new recruits to the staff of the central banks. A batch of 30 young men,

mostly graduates, received training last year. Arrangements have been made for their appointment in central banks on a temporary basis for the present. This year also there will be a similar training class under the auspices of the Bengal Co-operative Organisation Society, Limited.

In the meantime, an elaborate training scheme costing about Rs. 3½ lakhs to be subsidised out of the Government of India grant earmarked for co-operative societies has been prepared and submitted by the Co-operative Department under the direction of Mr. Darling, Special Officer, Credit Department, Reserve Bank. Provision has been made in this scheme for efficient training of the departmental and central bank staff as well as office bearers and members of co-operative societies in co-operative principles and practice.

The Bengal Co-operative Organisation Society is in charge of publicity and propaganda on behalf of the movement which it carries out with two periodicals, one in English, and the other in Bengali. It also entertains two lecturers for the purpose and participates in exhibitions. Government grant an annual subsidy to the Bengal Co-operative Organisation Society for meeting its cost, the amount provided for the current year being Rs. 6,500.

A scheme for the marketing of agricultural produce on a co-operative basis to be financed from the Government of India grant for rural development has been submitted by the Co-operative Department.

In pursuance of the policy of consolidation and on the recommendation of the Bengal Retrenchment Committee, 1932, new organisation of agricultural credit societies and special type of societies was practically stopped for some time. It has been realised now that there is the danger of stagnation being set in in the movement, if new organisation is wholly stopped. Accordingly, Government have recently removed the ban on new organisation. The Co-operative Department has framed a new set of by-laws for the societies now to be formed and is arranging for efficient supervision of these societies. Provisions have been made in the by-laws with a view to counteracting the defects which have crept into the movement in the past.

From what I have stated, my hon'ble friend will, I hope, realise that the working of the co-operative movement has been reviewed by more than one authoritative body in recent years and has also been receiving every attention from the Government of Bengal in consultation with such an expert co-operator as Mr. Darling. The appointment of a committee, therefore, at this stage, is not only not necessary, but will serve to delay matters. What is now required is not the appointment of a committee for the purpose of discussing the defects which are already well known, and many of which still persist, but what is necessary is that sustained and continuous action should be taken for

the removal of the defects which are already patent. The Co-operative Department in Bengal has been doing their best in this direction, and as I have already stated, the question of bringing the departmental staff to an adequate strength has been taken up in consultation with the Registrar on the advice of Mr. Darling. My friend and the House may rest assured that all that is possible for the department to do will be done to help the movement to pass through the present crisis. And I have no doubt that the action which is being taken in this direction will result in strengthening the co-operative movement if the societies loyally follow the advice and adopt the suggestions of the department. After all, these co-operative societies are autonomous bodies and an inefficient local management can neutralise all attempts at efficiency on the part of the department. The Registrar of Co-operative Societies has doubtless statutory control in certain matters but the ultimate sanction for such control is his power to cancel the registration of the society, and it is obviously undesirable to take to this extreme course except as a last resort. I would again assure the House that nothing will be wanting on the part of the department to help the movement to steer clear through the present economic crisis which has naturally had its reflection on the condition of these societies.

As regards the enquiry into the appointment of officers, it may be said that superior appointments in the department are mostly drawn from the Bengal Civil Service while a small percentage is promoted from subordinate officers of the department. The subordinate staff is appointed on the result of competitive examination, 20 per cent. being promoted from the supervising staff of the central banks. The appointments are made by competent authorities in the best interests of the movement.

My friend, Mr. N. K. Basu, has said that the report on the movement for the year 1933-34 has not yet been published. I might inform him that the report has already seen the light of day. I wish Mr. Basu would have taken a little more trouble in obtaining a report before indulging in the accusations he has made.

I trust, Sir, that in view of what I have tried to explain at length to this House, my hon'ble friend will see that all that is humanly possible is being done to develop on sound lines the co-operative movement to which Government naturally attach the greatest importance as being the most powerful lever for effecting improvement in the rural condition. I trust, after hearing me, he will withdraw the resolution; otherwise, Government must oppose it.

Sir, I would add that the report for 1933-34 has been published, and if the hon'ble mover had cared to ask me or any one in my department for this report——

Mr. NARENDRA KUMAR BASU: Why should I ask for copies of these reports as a matter of favour? Have they been published and, if so, when?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: They were published some time ago.

Mr. NARENDRA KUMAR BASU: Sir, before you close the debate I would like to exercise my right of reply.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I would like to point that the time of our evening prayer falls at five minutes to 7 o'clock. So I would ask you, Sir, to adjourn the Council at that time and not sit again.

Mr. PRESIDENT: I take it that your request is that I should adjourn the Council at five minutes to 7 p.m. every evening, as long as necessary, in order to enable the Muhammadan members to say their evening prayers at the prescribed time. I agree to do so and I thereby save ten minutes every day, inasmuch as the usual second adjournment will in that case be dispensed with. I would, however, reserve my right to prolong a sitting if I find it necessary to do so in the public interest.

Dr. NARESH CHANDRA SEN GUPTA: May I ask the Hon'ble Nawab Sahib whether the Bill for debt conciliation is going to be introduced this year or next year?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: Sir, it is difficult for me to say anything as the matter is not in my portfolio.

Mr. PRESIDENT: The debate on this resolution will be resumed on the 20th of August which is the further day allotted for the discussion of resolutions.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 30th July, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 30th July, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 95 nominated and elected members.

SHORT NOTICE QUESTIONS ABOUT JUTE RESTRICTION.

Mr. C. C. COOPER: (*a*) Will the Hon'ble Minister in charge of Agriculture and Industries be pleased to say whether Government have decided to adopt measures for voluntary reduction of acreage under jute in Bengal this year?

(*b*) If not, what are their intentions in this matter?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. C. M. Faroqui, of Ratanpur): (*a*) Yes, the decision has been announced in the communiqué published on the 28th July.

(*b*) Does not arise.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state what percentage of reduction is going to be fixed by the Government of Bengal for next year?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: It is too early now for Government to come to any decision in the matter.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state as to the authority who will make that decision?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: Government.

Mr. SHANTI SHEKHARESWAR RAY: Is there any likelihood of the matter being placed before any committee—I mean the proposed committee which was referred to by the Hon'ble Minister in his speech in this House in March last?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: I cannot exactly follow the hon'ble member; will he please repeat it?

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Minister in the course of a speech in March last——.

Mr. PRESIDENT: What is your question, Mr. Ray? You must put the matter in the form of a question.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state whether the decision about the percentage of restriction will be taken by the Government of Bengal or by any committee appointed by the Government of Bengal?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: The decision regarding the percentage of restriction will be made by Government. As regards the committee mentioned by the hon'ble member, the matter has been referred to the Government of India as more than one province is interested.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Minister aware that a good deal of speculation and gambling is going on in the future market in view of the indecision on the part of the Government of Bengal in the matter?

The Hon'ble Nawab K. C. M. FAROQUI, of Ratanpur: Not that I am aware of.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Minister aware that there has been an insistent demand for the early publication of the decision of Government in the matter?

The Hon'ble Nawab K. G. M. FAROQUI, of Ratanpur: The decision of Government has already been published in the communiqué of 28th July.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal, Agra and Assam Civil Courts (Bengal Amendment) Bill, 1934.

The Hon'ble Sir BROJENDRA LAL MITTER: I beg to move that the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Bill, 1934, be referred to a Select Committee consisting of—

(1) Mr. T. J. Y. Roxburgh,

(2) Mr. G. G. Hooper,

(3) Mr. Narendra Kumar Basu,

(4) Babu Jatindra Nath Basu,

(5) Rai Bahadur Akshoy Kumar Sen,

(6) Rai Bahadur Sarat Chandra Bal,

(7) Maulvi Tamizuddin Khan,

(8) Maulvi Abul Quasem,

(9) Mr. A. R. E. Lockhart,

(10) Mr. H. S. Suhrawardy,

(11) Babu Hem Chandra Roy Choudhury.

(Sir, may I, with your permission, add here the name of Babu Khetter Mohan Ray?) And

(12) the mover

with instruction to submit their report within seven days from the date on which this motion is carried in Council, and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, as you will remember, this Bill was, by a motion of this House, circulated for opinion. We have received a considerable body of opinion which we have examined. There are two main provisions of the Bill; one is to increase the pecuniary jurisdiction of selected Munsifs from Rs. 2,000 to Rs. 5,000 and the other is to increase the pecuniary jurisdiction in Small Cause Court matters in the case of Subordinate Judges from Rs. 500 to Rs. 1,000, and in the case of Munsifs from Rs. 250 to Rs. 500. These are the main provisions of the Bill. I do not wish, to go into the details of these figures at the moment. Sir, I may remind the House what the principle of the Bill is, and to-day I shall only invite the House to accept the principle of the Bill. So far as the details are concerned, if the House chooses to send this Bill to a Select Committee, that will be the proper place to discuss them.

Sir, the principle of the Bill is to relieve congestions in Civil Courts by increasing the pecuniary jurisdiction of some selected Munsifs and Subordinate Judges—that is the principle of the Bill. What that increase should be is a matter of detail. That is a matter for the Select Committee to consider. Our suggestion is that the increase in the case of selected Munsifs will be from Rs. 2,000 to Rs. 5,000, and in Small Cause Court matters, the figures which I have just mentioned.

Sir, it is well known that at the moment there is a great deal of congestion in civil suits in the Courts of Munsifs and Subordinate Judges. The result is protracted litigation, and people going to Courts for relief have to wait for an indefinite time. Sir, it is trite saying that justice delayed is justice denied. In order to improve this state of things, we have adopted in this Bill the suggestions made by the Civil Justice Committee over which our late Chief Justice, Sir George Rankin, presided. There were various suggestions in the report of the Civil Justice Committee—some of them controversial and some non-controversial. We have selected the least controversial of the suggestions, and it is hoped that if these suggestions be given effect to, the congestion will be materially relieved.

Sir, in the opinions which we have received, there is a large volume in favour of increasing the jurisdiction of selected Munsifs. As this House knows, and the country knows, the Munsifs constitute a very

efficient and a very capable body of public servants. The Civil Courts Act was passed some 50 years back, and after that Act had been worked for about 24 years, the legislature finding the work of the Munsifs satisfactory, increased the pecuniary jurisdiction of the Munsifs in Small Cause Court matters from Rs. 100 to Rs. 250. That was in the year 1911. Another 24 years have elapsed, and during this second period of 24 years, these Munsifs have not only maintained their position but considerably enhanced their reputation for learning, for integrity, for devotion to duty and for industry. Now it is to this body of public servants that we propose to give enlarged jurisdiction. Sir, this is not an innovation in India because in many provinces, as the Civil Justice Committee's report says, Munsifs who proved their capacity were invested with larger jurisdiction. I will mention only one or two provinces. In the Central Provinces, Munsifs have jurisdiction up to Rs. 5,000; in Bihar and Orissa, up to Rs. 4,000; in the Punjab, up to Rs. 5,000. Now in Bengal, their jurisdiction is up to Rs. 2,000 in selected cases. Our proposal is that it should be increased to Rs. 5,000. Similarly, in Small Cause Court matters, in the Central Provinces, we find that Small Cause Court power extends up to Rs. 1,000, and in several other provinces also, it is higher than in Bengal. Anyhow, Sir, as I said a minute ago, this is a matter which can best be discussed in the Select Committee.

There is one other matter which I should like to mention and that is this: Recently I saw a number of members of the Judicial Service, gentlemen who, we propose, will be invested with these additional powers. There is an apprehension in their minds that the conferment of the additional powers might prejudicially affect their service interests. Now that is an aspect of the question which was not present in our minds when the debate took place here last Session. I mention this aspect of the question so that members who will serve on the Select Committee, if this Bill goes to a Select Committee, may apply their minds to it. It is a serious matter, and it behoves us that while we are trying to relieve congestion for the benefit of the litigants, we should not at the same time do anything which might affect prejudicially the prospects in the service of the body of public servants who will be entrusted with this additional work. Another apprehension which was indicated was that if Munsifs do a great deal of work which was now being done by Subordinate Judges, the tendency might be to reduce the number of Subordinate Judges. Sir, I can assure the House that Government has no present intention of reducing the number of Subordinate Judges; on the contrary, only recently we have increased the number. These, Sir, are the points which I need mention at the moment.

The principle of the Bill is to confer additional powers to Munsifs and Subordinate Judges, so as to relieve Subordinate Judges of some

of the work with which they are now burdened, and thereby facilitate early disposal of civil suits. That is the principle of the Bill, and I do not think there is any member in this House who will not accede to that principle. If that principle be acceded to, then this matter ought to go to the Select Committee. What should be the quantum of increase—that is a matter for discussion, and the Select Committee is the proper place for it. Sir, I move.

Mr. NARENDRA KUMAR BASU: Sir, I rise to oppose this motion. I must say, at the very outset, that I am very pleased, and also grateful to the Hon'ble Member, for the tribute that he has paid to a very hard-worked and efficient class of public servants, namely, the Munsifs. Nobody denies the efficiency of their work; nobody denies that they are hard-worked; nobody denies that the amount of work that is thrown upon them is sometimes such as tends to ruin their health at an early age. The Hon'ble Member has told the House that the principle of the Bill is to relieve congestions in the Courts of Subordinate Judges and District Judges, and that Government have taken this step at the instance of the Civil Justice Committee. Sir, I happened to be one of the co-opted members from Bengal to the Civil Justice Committee, and I, therefore, know the limitations under which that committee had to work. Sir, in the resolution of the Government of India appointing that committee, it was distinctly laid down that the one thing that the committee had no power to go into was the question of increasing the cadre of the judicial services. They were asked to examine how the present number of judicial officers could be made to cope with the increased and increasing amount of work in the Civil Courts. The Government of India made it a condition precedent almost that the committee should have no voice in the matter of the strength of the judicial officers. You can very well imagine, Sir, under what handicap that committee were placed. The first thing that strikes one in the face when he reviews the work of the Civil Courts in the country is that that work is much too much for the existing number of judicial officers, and one of the principal reasons why the Civil Justice Committee recommended the redistribution of the pecuniary jurisdiction of the Courts was, I take it, to find some relief for the Subordinate Judges who are certainly older men than the Munsifs. My submission is, Sir, that in trying to relieve the Subordinate Judges, you will be throwing a burden upon the Munsifs which they will hardly be able to bear. It will either mean that their work will be, if I may use the expression, cramped, or that the efficiency of the work, which is now admitted, will suffer. There is bound to be a more tremendous congestion in the Courts of the Munsifs if this sort of extension of pecuniary jurisdiction is given to the Munsifs than the congestion of the present time in the Courts of the Subordinate Judges and District Judges. Sir, the one

panacea for the relief of the congestion is the appointment of more officers. Everyone knows, I shall not repeat it now at this stage, what a tremendous profit is made by the Government out of their sales of justice. The money that is taken from the litigants in the shape of court-fees helps Government to run almost all the other branches of the administration. If some percentage of that income is devoted to the interests of the litigants, who pay that money, by the appointment of some more Munsifs and some more Subordinate Judges, I am sure that will relieve the congestions. I, therefore, submit, Sir, that Government by this measure has chosen not the proper remedy, but, if I may say so without any disrespect, a quack's remedy. It is simply transferring a lot of work from one class of overworked officers to another. The result might be that it would be looked upon with apprehension by the people of the province; the result might be, as I have said, that the quality of work of the Munsifs would suffer, the poor litigants would suffer; and when these Munsifs in course of time are shifted to higher Courts, the work of the higher Courts would also suffer. For these reasons, Sir, I oppose the motion.

Mr. PRESIDENT: Am I to understand that you are withdrawing your name from the proposed Select Committee?

Mr. NARENDRA KUMAR BASU: Sir, I simply oppose the present motion, but if the House thinks it should go to the Select Committee, I shall serve on the Select Committee.

Mr. PRESIDENT: As the motion to refer the Bill to a Select Committee has been opposed, I propose to split it up into two parts. I shall put them separately, the first part proposing to refer the Bill to a Select Committee will be first put and if that is carried, I shall put the second part dealing with the personnel of that committee.

The first part, namely, that the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Bill, 1934, be referred to a Select Committee, was put and a division was called by Mr. P. Banerji.

The question, after the division bell, was again informally put to the House when no division was claimed by the opposition, and it was agreed to.

Mr. PRESIDENT: I strongly disapprove your action, Mr. Banerji. You have for nothing wasted so much time of the Council by calling for a division.

Mr. P. BANERJI: I am sorry, Sir, I called for a division at first, but on reconsideration I thought I should not demand it as I was not quite sure of a majority on our side.

Mr. PRESIDENT: Before I put the second part, I might tell the House that on paper there are as many as four amendments with reference to the personnel of the proposed Select Committee, but I understand that they are all out of order inasmuch as the consent of the members mentioned therein has not been obtained, as required.

Mr. NARENDRA KUMAR BASU: I find that in all these motions the mover has named himself as one of the members, and I presume that he had his own consent, Sir.

Mr. PRESIDENT: You are at liberty to draw your own conclusions. (Laughter.) The second part of the motion, namely "That the Bengal, Agra and Assam Civil Courts (Bengal Amendment) Bill, 1934, be referred to a Select Committee consisting of—

(1) Mr. T. J. Y. Roxburgh,
(2) Mr. G. G. Hooper,
(3) Mr. Narendra Kumar Basu,
(4) Babu Jatindra Nath Basu,
(5) Rai Bahadur Akshoy Kumar Sen,
(6) Rai Bahadur Sarat Chandra Bal,
(7) Maulvi Tamizuddin Khan,
(8) Maulvi Abul Quasem,
(9) Mr. A. R. E. Lockhart,
(10) Mr. H. S. Suhrawardy,
(11) Babu Hem Chandra Roy Choudhuri,
(12) Babu Khetter Mohan Ray, and
(13) the mover

with instruction to submit their report within seven days from the date on which this motion is carried in Council, and that the number of members whose presence shall be necessary to constitute a quorum shall be five," was then put and agreed to.

The Bengal Land-Revenue (Interest) Bill, 1935.

The Hon'ble Sir BROJENDRA LAL MITTER: I beg to move that the Bengal Land-Revenue (Interest) Bill, 1935, be taken into consideration.

This is a Bill designed to remove a slight technical defect which was discovered in the working of the Act which was passed in 1932. Sir, in order to explain what the defect is I have to go back to the

Statement of Objects and Reasons of the Bill that was introduced in 1932 and passed by this House. On that occasion it was stated "..... There is, however, no reason why interest should not be levied on the arrears due from Court of Wards estates and in recent times the amount of the arrears due from the Court of Wards estates is sometimes considerable. The object of the present Bill" (that is the Bill introduced in 1932) "is to remove the bar imposed by the unrepealed section II of Act XII of 1841 against the levy of interest on arrears due by estates in charge of the Court of Wards or by other estates the sale of which is prohibited by law." It was specifically stated that the object of the Bill was to remove the bar against levy of interest on arrears due by estates in charge of Court of Wards. The Bill was passed, but in the working of the Act a technical defect was discovered, and it is for the purpose of removing that technical defect that clause 2 has been drafted. Interest was charged in pursuance of the Bill passed in 1932, from 19th January, 1933, the date from which the Act came into operation. In the present Bill it is provided that the interest which has been charged notwithstanding the technical defect has been validly charged; it is to validate what was the real intention of the Act. The first paragraph of clause 2 has been drafted thus- "..... interest shall be payable, and shall be deemed with effect from the 19th day of January, 1933, to have been payable on all arrears of land revenue, and such interest shall be recoverable as a public demand." It is only to validate what has been done according to the real intention of the Act of 1932. In this connection I find that some hon'ble members are under a misapprehension with regard to the interest which was excused. Since January, 1933, in many cases the Collector, in exercise of his discretion, excused the interest or the penalty payable under the Act of 1859. I can assure hon'ble members that it is not the intention of Government to levy interest which has already been excused. It is only to validate what was done perhaps irregularly that this clause is designed. Sir, the next clause is—"All such interest shall in respect of the period from the 19th day of January, 1933, up to the commencement of this Act, be deemed to have been payable at the rate of seven and a half per centum per annum": that is the rate which has been levied. So there is no new imposition, no extra burden. The second part is—"All such interest shall in respect of any period after the commencement of this Act be payable at such rate, not exceeding seven and a half per centum per annum as the Local Government may, by notification in the *Calcutta Gazette*, determine." With regard to this clause I may remind the House that last Session I announced that Government had decided to levy not more than 6 per cent.: that is still the intention of Government: there is no present intention of levying anything more than 6 per cent. So although the maximum provided here is 7½ per cent., Government have no intention to levy more than 6 per cent. Now, these are the two misapprehensions, one

regarding the interest excused and the other with regard to the rate of interest to be charged after the passing of this measure. The rate will be 6 per cent., although Government will have the power to raise the limit to 7½ per cent., that is the maximum. That is all the provision of the Bill; it imposes no new taxation, imposes no new burden. It only validates what has been done somewhat irregularly though in strict accordance with the real intention of the Act of 1932. It is a technical and formal matter, and I hope the House will have no hesitation to pass it.

Mr. SARAT KUMAR ROY: Sir, if you will allow, I will not move amendment No. 6A standing in my name and will move amendments Nos. 6B and 6C.

The question that the Bengal Land-Revenue (Interest) Bill, 1935, be taken into consideration was then put and agreed to.

Clause 1.

The question that clause 1 stand part of the Bill was put and agreed to.

Mr. SARAT KUMAR ROY: I beg to move that in clause 2 (*1*), in lines 2 to 4, the words "and shall be deemed with effect from the 19th day of January, 1933, to have been payable" be omitted.

I beg also to move that in clause 2, sub-clause (*2*) (*a*) be omitted.

Sir, in the Statement of Objects and Reasons, made by the Hon'ble Member in charge of the Bill, it has been mentioned that the object of the Bengal Land Revenue Sales (Repealing) Bill of 1932 was to remove the bar imposed by the unrepealed section II of Act XII of 1841 against the levy of interest on arrears due by estates in charge of the Court of Wards as well as by other estates, the sale of which is prohibited by law. I think that was so, and when that Bill was before this House in 1932, we were given to understand that the operation of that Bill would be confined to the estates I have just mentioned, and would not be extended to other estates.

It has also been said by the Hon'ble Member in charge of this Bill, that the present Bill aims at only removing the ambiguity that remains in the language of the Bengal Land-Revenue Sales (Repealing) Act, 1933, in that particular respect, and it wants to validate the levy of interest which has already been charged on arrears due by those estates, the sale of which is prohibited by law.

But, Sir, to my misfortune, I find the language of the present Bill goes further and covers the cases of all revenue-paying estates in

Bengal, that is to say, not only estates which are under the management of the Court of Wards or the estates the sale of which is prohibited by law, but it embraces also the other estates which are liable to be sold under Act XI of 1859 for arrears of revenue due thereon.

In support of what I contend, Sir, I beg to draw the attention of the Hon'ble Member that in line 4 of clause 2 (*1*) the expression used is "on all arrears of land revenue." Obviously, it covers the arrears of land revenue due by estates the sale of which is not prohibited by law. That is a new departure in the principles of the Bill, and I protest against the new departure.

Sir, in these hard days, interest should not be charged on arrears of land revenue. Moreover, the period for which these arrears remain uncovered is unquestionably small—it seldom exceeds three months. The defaulters are liable to pay damage to the extent of 25 per cent. on the amount in default, and the Collector has absolute discretion in fixing the damage and staying the sale. Though by departmental instructions, these damages are not realised nowadays in full and only a nominal amount is demanded, but still the liability under the law and the severe risks of sale stand.

Sir, while promulgating the Sunset Law in 1841, Government did forego their claim for interest on arrears, presumably because the properties under this Sunset Law were subjected to more severe penalties than that for payment of interest. As the Sunset Law is still applicable to estates to which I am referring, I think Government should refrain from demanding any interest on arrears due from them. So, Sir, I think the Bill requires some modifications and, therefore, I gave notice of the motion for referring this Bill to a Select Committee. But considering the situation in the House, I did not move that motion, but I move the next two motions which stand against my name, namely:—

"that in clause 2 (*1*), in lines 2 to 4, the words 'and shall be deemed with effect from the 19th day of January, 1933, to have been payable' be omitted. And that in clause 2, sub-clause (*2*) (*a*) be omitted."

Now, Sir, with regard to this question, I may be permitted to say that in the year 1933, owing to severe economic distress, the late Revenue Member—Sir P. C. Mitter—had announced that so long as the economic distress would prevail, damage at 25 per cent. will not be charged against defaulters who fail to pay up their dues for land revenue on the last date fixed for payment. That was a special concession given to the proprietors to alleviate their difficulties under the depression. I do not think that the situation has so changed as to justify a curtailment of this favour to any extent, and to impose on them the liability for interest. That would be indeed very hard on them and would clearly be unfair.

In any case, Sir, I think the liability should not have any retrospective effect.

The Hon'ble Sir BROJENDRA LAL MITTER: My friend Mr. Sarat Kumar Roy says—Why levy interest on estates which are not in charge of Court of Wards? What is the alternative? Would he prefer that these estates should be sold up? If there be statutory provision to charge interest on arrears, it will be an alternative to sale. Compulsion is provided by statute and the Collector has little discretion in the matter. Is it not a relief if, instead of the estate being sold up straightaway for arrears, the Collector gives time to the landlord on payment of interest? What happens now? When an estate is in default, although it is liable to be sold up immediately, the owner approaches the Collector and says: "Please hold your hand. I am willing to pay interest," and it is on this undertaking to pay interest that the sale is postponed. If Mr. Roy does not want any provision for interest, the result will be that the Collector will have no discretion but to sell up.

With regard to estates in charge of Court of Wards the difficulty is that there is nobody with whom you can negotiate. The estates cannot be sold up, revenue falls into arrears and Government loses. Therefore, it is necessary that the estates in charge of Court of Wards should be liable for interest.

The amendment of Mr. Sarat Kumar Roy were then, by leave of the Council, withdrawn.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: On the assurance given by the Hon'ble Member that interest will be charged at 6 per cent., I do not move my motion.

Clause 2.

The question that clause 2 stand part of the Bill was put and agreed to.

Preamble.

The question that the Preamble stand part of the Bill was then put and agreed to.

The Hon'ble Sir BROJENDRA LAL MITTER: I beg to move that the Bengal Land-Revenue (Interest) Bill, 1935, as settled in Council, be passed.

The motion was put and agreed to.

The Calcutta Municipal (Amendment) Bill, 1935.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move for leave to introduce a Bill further to amend the Calcutta Municipal Act, 1923.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill—a Bill further to amend the Calcutta Municipal Act, 1923.)

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the said Bill be taken into consideration.

This is a very simple measure. The only object of the Bill is to remove some difficulties in connection with water-supply to the *bustees*. Section 228 of the Calcutta Municipal Act provides that the Corporation can ask the owner of any premises to take water connection if such connection can be supplied from the water main within 100 feet from any portion of the premises. The Corporation found it difficult to provide water connection to the *bustees* because the limit was found to be rather too small and in 1932 they suggested that the Act should be amended so as to increase the statutory limit to 500 feet in place of 100 feet. But this was considered too long a distance by Government. In their opinion it might not have been possible to supply water from such a distance and Government suggested a compromise of 200 feet which was accepted by the Corporation. The object of the Bill is therefore to remove the difficulty of supplying water to the *bustees*. I hope the House will have no objection in accepting this statutory amendment of the Act.

The motion was put and agreed to.

Clause 1.

The question that clause 1 stand part of the Bill was put and agreed to.

Clause 2.

The question that clause 2 stand part of the Bill was then put and agreed to

Preamble.

The question that the Preamble stand part of the Bill was put and agreed to.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move that the Calcutta Municipal (Amendment) Bill, 1935, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Village Self-Government (Temporary Provisions) Bill, 1935.

The Hon'ble Sir BIJOY PRASAD SINGH ROY: I beg to move for leave to introduce the Bengal Village Self-Government (Temporary Provisions) Bill, 1935.

The motion was put and agreed to.

The Secretary then read the short title of the Bill—a Bill to provide for certain matters in connection with certain elections for union boards held before the commencement of the Bengal Village Self-Government (Amendment) Act, 1935.

Mr. PRESIDENT: Gentlemen of the Council, we have no other business to transact to-day.

Maulvi SYED MAJID BAKSH: What about the Bengal Development Bill?

Mr. PRESIDENT: The Development Bill will be taken up to-morrow. The Council stands adjourned until 3 p.m. to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 31st July, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 31st July, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja SIR MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 109 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Special posts held by Munsifs.

***5. Maulvi MUHAMMAD HOSSAIN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing which special posts are held at present by Munsifs in Bengal?

(*b*) Is it a fact that ever since their creation the post of the Registrar of the Court of Small Causes, Calcutta, one of the Judges of the Court of Small Causes, Calcutta, and the Assistant Secretary of the Judicial Department have never been filled up and held by any Muhammadan Munsif?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the same?

(*d*) Is the Hon'ble Member aware that a good number of qualified Muhammadan Munsifs are now available to hold these special posts?

(*e*) If the answer to (*d*) is in the affirmative, will the Hon'ble Member be pleased to state whether Government are considering the desirability of filling up henceforth these special posts alternately with suitable Muhammadan and Hindu Munsifs like the post of Inspector-General of Registration, Bengal?

(*f*) Is the Hon'ble Member aware that some of the special posts referred to in (*b*) are going to fall vacant in the near future?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) (1) Registrar, Presidency Small Causes Court.

(2) Assistant Secretary, Judicial Department of this Government.

(3) One of the Judges of the Presidency Small Causes Court.

(*b*) Yes, but the post of Assistant Secretary to the Judicial Department was held by a Muhammadan Deputy Magistrate from 1st August, 1921, to 2nd January, 1927.

(*c*) Officers are specially selected for these posts on merits in consultation with the High Court.

(*d*) It is not possible to make any statement till the question has actually been examined in connection with any particular vacancy.

(*e*) There is no such proposal before Government at present.

(*f*) None of these posts is likely to fall vacant within one year.

Maulvi SYED MAJID BAKSH: With respect to answer (*b*), will the Hon'ble Member be pleased to state the reasons why a Deputy Magistrate was appointed? Was it for the reason that no Munsif was available?

The Hon'ble Sir BROJENDRA LAL MITTER: Sir, I want notice of that question. It was a long time ago, covering a period from 1921 to 1927. I cannot tell you why, as I was not here at the time.

Maulvi SYED MAJID BAKSH: But certainly there were Munsifs available in Bengal at that time?

The Hon'ble Sir BROJENDRA LAL MITTER: I have already said, Sir, I do not know why it was done. There must have been some reason, but I want notice of the question.

Persons under order of restraint.

***6. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) whether it is a fact that a large number of young men are under order of restraint in their own homes; and

(*ii*) whether it is a fact that most of them are not allowed either to continue their studies or to earn their livelihood and that they have naturally become burdens to their families?

(b) Are the Government considering the desirability of—

(i) providing them either with monthly allowances; or

(ii) allowing them to go to their daily avocations under restraint order; or

(iii) releasing them altogether?

(c) Will the Hon'ble Member be pleased to state the number of persons including males and females detained at present under order of restraint, district by district?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (a) (i) Yes.

(ii) They are allowed to continue their studies, but are not usually granted any allowance.

(b) (i) No, not as a matter of course.

(ii) Applications are considered on merits.

(iii) Not until Government are satisfied that they can safely be released.

(c) Complete figures are not available. They will be communicated to the hon'ble member when they have been collected.

Crimes in Bengal.

*7. **Babu KISHORI MOHAN CHAUDHURI:** Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing district by district and year by year for the last ten years—

(i) the number of dacoities, robberies, looting and theft cases having no political colour and cases having political colour;

(ii) the number of the said cases in which the offenders have been produced before law courts by the police,

(iii) in how many of the said cases, the police failed to trace out the offenders;

(iv) the percentage of the success of the police in tracing out and producing the offenders of the said cases;

(v) the percentage of failures in tracing out and producing the offenders of the said cases before law courts;

(vi) how many cases thus produced before law courts resulted in the conviction of the offenders;

(vii) in how many cases the trial of such offenders ended in their discharge as innocent;

(*viii*) how many persons thus convicted are Hindus, Mussalmans, Anglo-Indians, Christians and others;

(*ix*) what are the percentages of convicts in each of these communities;

(*x*) how many persons thus convicted are male and female;

(*xi*) the worth of property thus pilfered in all these dacoities, robberies and theft cases; and

(*xii*) what percentages worth of property in each of these cases have been recovered by the police?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) to (*xii*) The collection of the required information would entail so much time, labour and expense that Government regret that they are not prepared to undertake the task.

Babu KISHORI MOHAN CHAUDHURI: Will the Hon'ble Member be pleased to state whether it is not possible to supply some information on the subject without going into details?

The Hon'ble Mr. R. N. REID: It is not entirely impossible, but I venture to suggest to the hon'ble member that he might himself conduct a research into the old Police Reports, as he will find valuable information therein.

Detenus and other political prisoners.

***8. Mr. P. BANERJI:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing—

(*i*) the total number of detenus still in confinement;

(*ii*) the different categories of detenus and their number;

(*iii*) the number of camps and the number in each camp;

(*iv*) the condition of confinement;

(*v*) proved cases of ill-treatment of detenus;

(*vi*) number of releases in the last six months; and

(*vii*) the number of political prisoners in the Andaman Islands?

The Hon'ble Mr. R. N. REID: (*i*) to (*vii*) A statement is laid on the table.

Statement referred to in the reply to starred question No. 8.

(i) and (ii) On the 12th July, 1935, the position was as follows:—

Jails	..	80
Camps	...	1,468
Village domicile	...	764
Domiciled with relatives and confined to certain limits	...	28
Home domicile	..	174
Confined in a sanatorium	...	1
(iii) Number of Camps	..	4

Population on the 12th July, 1935, was—

Buxa	.	177
Hijli		327
Berhampore	..	482
Deoli	.	482

(iv) The conditions of detention in village domicile and home domicile include restrictions on interviews, correspondence and communication with unauthorised persons and residence within defined limits. Detenus in village and home domicile are required to report at the thana at intervals. Detenus in jails and camps have to observe the rules laid down for the discipline of the camps. They are provided with facilities for games and study. Detenus in village domicile and home domicile are at liberty to continue their studies.

(v) No case known.

(vi) One hundred and eleven from January to June this year, including persons who are free to move about, but have to report periodically to the police.

(vii) There are 229 terrorist prisoners in the Andamans from this province.

Mr. P. BANERJI: With reference to 764 persons being in village domicile, will the Hon'ble Member kindly let us know whether these persons are domiciled in their own villages or in villages other than their own?

The Hon'ble Mr. R. N. REID: Not necessarily in their own villages, Sir.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether it is not possible to detain these persons in their own villages under the protection of their guardians?

The Hon'ble Mr. R. N. REID: Not always possible or convenient, Sir.

Mr. P. BANERJI: With reference to 229 terrorist prisoners in the Andamans, will the Hon'ble Member be pleased to state whether he is contemplating to send more prisoners to the Andamans?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Mr. NARENDRA KUMAR BASU: With reference to 764 persons in village domicile, will the Hon'ble Member be pleased to state whether any enquiry has been made as to the health of the particular villages where these detenus are placed?

The Hon'ble Mr. R. N. REID: A detailed enquiry is not made in each particular case.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether these men are sent out to villages in a haphazard manner?

The Hon'ble Mr. R. N. REID: They are domiciled in villages like anybody else in Bengal, but villages are not chosen simply because they are unhealthy.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Member aware that a person ordinarily domiciled in Bankura would not like at all to leave his own village if he is domiciled in a village in the Noakhali district or in a *char*?

The Hon'ble Mr. R. N. REID: That is quite conceivable, Sir, but if a detenu suffers from bad health, very often we change his domicile.

Mr. SHANTI SHEKHARESWAR RAY: With reference to answer (*c*), will the Hon'ble Member be pleased to state how many cases of complaint were received by Government from detenus of ill-treatment?

The Hon'ble Mr. R. N. REID: We have had numerous cases of complaint made by the detenus.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any enquiry was held in connection with such complaints?

The Hon'ble Mr. R. N. REID: I cannot answer that offhand, Sir.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Rural improvement from the Government of India contribution.

2. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Finance Department be pleased to state whether Government intend to consider the feasibility of diverting the entire amount of the contribution from the Government of India for rural improvement in Bengal towards opening up of roads and communications in rural areas in jute-growing districts for better exploitation of sugarcane and thereby helping in the restriction of cultivation of jute?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Sir John Woodhead): The member is referred to the resolution already circulated indicating the objects on which the Government of India's rural uplift grant is proposed to be spent in Bengal.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether the decision arrived at by Government, as indicated in the resolution, was on the basis of any recommendation from any public body or association?

The Hon'ble Sir JOHN WOODHEAD: No, Sir, I do not think so. Government examined the question and came to their own decision.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether Government consulted the district boards, municipalities and other associations before coming to a decision?

The Hon'ble Sir JOHN WOODHEAD: Not on the outlines, Sir.

Apprenticeship of lawyers desiring to practise in subordinate courts.

3. **Khan Bahadur A. F. M. ABDUR-RAHMAN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the Government is contemplating abolishing the system of one year's apprenticeship of new lawyers with senior pleaders before they can independently practise in a court other than the High Court?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state from what time such new system will be given effect to?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) No. The matter rests with the High Court under section [illegible] of the Legal Practitioners Act.

(*b*) Does not arise.

GOVERNMENT BUSINESS.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

Bengal Development Bill, 1935.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to present the Report of the Select Committee on the Bengal Development Bill, 1935.

I also beg to move that the said Bill, as reported by the Select Committee, be taken into consideration.

Sir, the Report of the Select Committee has been for some time in the hands of the members of the Legislative Council, and it is obvious from the amendments submitted that the Bill, as amended, has received a great deal of attention from them. But I wish to comment on a few of the changes proposed by the Select Committee, because these are intentions that some of the members of this House have failed to grasp their precise meaning and implications.

I would at the outset, draw attention to the fact that very few changes in substance have been made in the Bill by the Select Committee. A great many changes have been made by the Committee but it will be seen on a careful examination that almost all these are changes in the phraseology of the Bill or in the machinery proposed for carrying out its provisions.

It seems most convenient to mention the substantive changes in the order of the clauses concerned. To begin with there is clause 5A. The change in substance in clause 5A is in the proviso, which states that Government cannot impose an improvement levy unless the Bengal Legislative Council has recommended such imposition by a resolution. The reasons for this proposal are connected with the subject matter of clause 5B which was inserted in order that the House might have a straightforward debate regarding the proposal to apply the principles of this Bill to the Bakreswar and Damodar Canals. It is unnecessary to remind the House that the Statement of Objects and Reasons mentioned the idea of applying the Bill to areas where improvement schemes had recently been carried out; and I explained, in my opening speech, that this had particularly reference to the two schemes in question.

It had been argued that Government were now asking for the levy to be imposed in regard to schemes carried on without the approval of the Legislative Council; that what had happened once might happen

again; and that it was not right to leave any Government free to carry out expensive works first and then (when they failed to pay) to demand from the Council sanction to impose an improvement levy because the provincial finances could not afford to meet the loss. This argument cannot be accepted in full. The two schemes in question were not executed without the knowledge and approval of the Legislative Council which voted the money for them: and no Government would dream of trying deliberately to force the hand of the Legislative Council in the manner suggested—anyhow no Government which held power at the pleasure of the Council could do so.

It was intended by Government that new schemes should be approved by the Legislative Council: the idea was that they would be discussed at the time when budget provision for them was first made. However, it might happen that a particular scheme could not be discussed during the budget debate, because the motion in regard to it was not reached; and Government have therefore accepted the proposal that a specific resolution recommending the eventual imposition of an improvement levy should be necessary before any large improvement work was taken up in respect of which an improvement levy was contemplated. I may mention that the amendment which I shall be moving regarding this proviso is intended to express the intention of the Select Committee more clearly: the idea was that the approval of the Council should be taken at an early stage, but Government have been advised that the proviso does not actually make this necessary.

As regards the changes in section 6, provision for examination by the Board of Revenue is not really a change in substance because it was intended that this should be done in any case.

The next change in substance is the insertion of clause 8A for payment of an improvement levy by landlords on new settlements. It will be noticed from the report of the committee that this new clause was inserted on the proposal of the majority of the non-official members, the official members taking no part in the voting. The main argument in favour of this clause is the one put forward by Mr. W. H. Thompson in his speech of March 7th that it is illogical and unjust to leave landlords alone in receipt of the full unearned increment which accrues as a result of an improvement work carried out and financed by Government, when the cultivators would have to pay back to Government in the form of improvement levy part of the increment which they received and towards the securing of which they had contributed their labour. This is a very strong argument; and it is supported by the second argument that under other Acts dealing with such improvements such as the Drainage Act, the Sanitary Drainage Act, the Embankment Act and Act VI of 1920 landlords are obliged to pay.

The next material change made by the Select Committee is regarding the imposition of the improvement levy on non-agricultural land: it is most important. They have provided in effect that, after an improvement, the increased profit should be assessed only once. The amendments which stand in my name regarding the clauses on this subject deal only with drafting. Government have agreed to accept the change, though made a radical alteration in this part of the Bill.

The changes as regards appeals are hardly changes of substance: They are broadly in accordance with the original intentions of Government, though they had wished to await the results of experience of the working of the whole procedure before reaching a final decision regarding the appellate authorities to be set up.

Similarly the new clause 19B safeguarding persons against being asked to pay under two Acts for the one improvement represents the policy which Government would have followed in any case.

Next there is an important change in clause 26: this originally left it open to Government to give compensation as an act of grace when damage was done by a "dead river" after revival. The objection would be that it would place people whose lands were damaged by a revived river in a better position than those whose lands are now damaged by live rivers in flood. The other changes in the clauses about compensation are not changes of substance.

I shall now explain the intentions of Government regarding certain clauses against which there is evidently strong opinion held by a large number of members of this House. From the list of amendments it appears that exception is taken to the imposition of levy on the Damodar Canal, Eden Canal and the Bakreswar Canal. Without going into the merits of this question at this stage I would like to inform the House that Government are prepared to make a differentiation between the new schemes and the three schemes mentioned in clause 5 (B). Government would like to move amendments fixing the rate of maximum levy in the case of the three schemes mentioned in 5 (B).

Lastly, there is clause 30. As I have already remarked the committee did not object to the substance of the provisions limiting the rents fixed on new settlements, but Government have within the past few days been advised that the changes made in the wording have actually had the effect of preventing any increase in the rent once fixed on land which is settled after an improvement levy has been imposed. This would not be right. There is no reason to modify the Bengal Tenancy Act except where a modification is necessary to secure a fair deal for the cultivators paying the levy; and a landlord should be left free to enhance rents under the Bengal Tenancy Act after the levy is imposed, whenever he would otherwise have been justified in enhancing them. Regarding these changes also, amendments are being prepared as quickly as possible and will be brought forward in due course.

I trust that members who have been doubtful of the provisions of the Bill will be satisfied with the readiness of Government to meet them on these points and that they will not press their various amendments which might lead to practical difficulties in the working of the Bill when it is passed into law.

Finally I would refer to the doubts expressed originally when the Bill was introduced and again in one of the notes of dissent, as to the intention of Government to proceed with new works. I am now in a position to announce that if the Bill is passed in a workable form the Irrigation Department will start during the next working season on a three years' programme of contour survey in Western Bengal and Central Bengal at a total cost of over two lakhs, covering about 10,000 square miles.

Some 2,000 square miles of this would be in Western Bengal and this portion ought to be finished before the next rains: it will then be possible to estimate whether the Ajoy schemes, the Mor scheme and the Bakreswar schemes can be financed under the machinery proposed in this Bill—and if they can be, schemes will be prepared. In addition there is the area between the Damodar and the Hooghly: we had a contour survey made of this area two years ago, and during this last working season we had observations made of discharges of the rivers. Now the Irrigation Department is working out a definite scheme for the revival of the rivers in this area. If the House passes the Bill in a form which will allow Government to proceed with confidence, they need not doubt that schemes will be carried out under it.

Mr. P. BANERJI: Mr. President, Sir, I beg to move by way of amendment that the Bill be recommitted.

Sir, the reason why I have moved this amendment is pretty clear, and that it is particularly so, is evident from what the Hon'ble Member has said just now, and I am more than ever convinced that the Bill should be recommitted. You are aware, Sir, the Hon'ble Member took time yesterday to think over the matter. Sir, if the Hon'ble Member accepts my motion, he will have sufficient time at his disposal to consult the members of the committee as also the outside public. Sir, I understand that the Hon'ble Member has been consulting some of the representatives of the *zemindars*, and I maintain that that consultation should be continued by him still further. The Select Committee has recast the Bill and has introduced several new principles in such a manner that they admit that the Bill requires re-publication. Sir, the Select Committee, to instance one or two items, has introduced the question of a permanent share of the profits to be derived for Government and that of including non-agricultural lands as well. Sir, the Hon'ble Member has said that if the Bill is accepted by the House as it is, the result will be that Bengal will once again

be prosperous and will prosper more and more. The Rural Development Commissioner maintained that this Bill was practically an anti-malarial measure, if this Bill were accepted by this House, there would be no malaria in Bengal. Not a word has now been said to that effect by the Hon'ble Minister. He has simply said that if this Bill were passed into an Act, the result would be that there would be an improvement.

From our past experience, Sir, we know that the Primary Education Act is now only a paper enactment. The same fate awaits the present Bill as it is nothing more than a mere taxation measure, and as such it should have been brought by the Finance Member instead of by the Member in charge of Irrigation.

Sir, Government wants to have a share of the profits to be derived, and that permanently. They maintain that the *zemindars* after every 15 years can raise the rent of their tenants the amount of which, so far as I can remember, is annas two in the rupee, though it must be admitted that the *zemindars* have not, on an average, raised the rent of their lands to more than annas twelve per *bigha* in the course of the last one hundred years. And on the basis of that case, Government wants to take Rs. 4-8 per *bigha* from the cultivators. In most cases, Sir, what is the rent per *bigha* of land to-day? It is not more than Rs. 2, but Government wants by a stroke of the pen to impose a tax of Rs. 4-8 a *bigha* of land. I am told, Sir, the Government has effected a compromise—with whom? With the representatives of the *zemindars* who are not going to be hit at all by this measure. If the tenants who are already overburdened are to pay this additional tax of Rs. 4-8 according to the lowest computation, according to the standard suggested by Mr. Thompson, their condition will become desperate, and it will become impossible for the *zemindars* to realise their dues from them. The point that I was just emphasising was that you should take the opinion of the Legislative Council in certain matters. Well, Sir, the Hon'ble Member knows the position. If you have to take the opinion of the public in a matter of public importance like this, I would refer you to the speech of Mr. Thompson delivered at the time of the introduction of the Bill. He said that in matters of taxation even in Parliament they are not circulated for public opinion. There in important matters they take the opinion of the public in another shape. They dissolve——

Mr. PRESIDENT: You moved that the Bill be recommitted. We are not considering whether the Bill should be recirculated for public opinion. Will you give me your reasons why you want to recommit the Bill?

Mr. P. BANERJI: I would refer you to one thing in this particular case. In December, 1921, the then Hon'ble Member the Maharajadhiraja Bahadur of Burdwan gave an assurance with reference to the Eden Canal that he would consult the opinion of the public at large whether in view of the great benefit that was likely to accrue from the completion of the project the public would be agreeable to the scheme. My point is that this is a new innovation. For the last 50 years the people on either side of the Eden Canal were enjoying certain prescriptive rights and they did not know that everything would be so suddenly changed. Therefore, when a new principle is being introduced, it is only fair that public opinion should be consulted. Further, it is within the competence of the Select Committee to consult public opinion, and I submit that the Select Committee should have consulted public opinion at least in accordance with the assurance given by the then Hon'ble Member in charge of the Department. As I said that these Taxation Bills in Parliament——

Mr. PRESIDENT: You need not go into that. The House committed itself to certain principles underlying the Bill and referred the Bill to the Select Committee without giving them any specific directions or instructions. So you can only touch upon matters which are within the scope of the Select Committee. Of course, the House itself can deal with those matters and even make such alterations in the Bill as are not within the competence of the Select Committee.

Rai Bahadur KESHAB CHANDRA BANERJI: The amendment says that the Bill be recommitted, but Mr. Banerji suggests that public opinion should be consulted.

Mr. PRESIDENT: Well, that point is covered by the ruling already given by me; but it cannot be denied that the committee may call for opinions in regard to matters of detail on their own initiative provided that they do not go beyond the accepted principles.

Mr. P. BANERJI: I was just submitting that it would be noticed that the Select Committee has changed the Bill considerably and made certain new clauses in the Bill. My point is that if the Bill is again referred to the Select Committee, it will get opportunity to consider this matter of consulting public opinion. We are all aware that there has already been a vehement protest from all parts of the country for the simple reason that the Bill is going to be a very great hardship on the people. If the people of the benefited area are to pay a portion of the income due to the improvement made by Government, it should be stated clearly what sort of improvement they are going to

get. There is no definition of the word "Improvement." Even if Government declare a certain part of the country to be a notified area, we know from our experience of the Damodar Canal that the people in the interior do not and cannot get any benefit out of the improvement. Therefore, if Government declare a particular area to be a notified area, the people there would be compelled to pay a levy although they may not be benefited in any way. In the case of the Damodar Canal where there is no compulsion, if the people do not take water on account of the rain, there is loss to Government. This is a very serious matter and Government should pay their serious attention to it. This Bill aims at compelling the people to pay a levy irrespective of the fact whether they are benefited or not. I do not see why Government should take such a hasty step in the matter. It is an admitted fact that irrigation schemes are not paying concerns and are a huge waste of money. If the matter is recommitted, then the whole question can be considered from all points of view expressed by different sections. If the Hon'ble Member has agreed to make certain changes by introducing some amendments, it is perhaps due to the fact of his being present at a meeting on Sunday last in a particular district- where I understand some other members of Government were also present—and being satisfied that their objections were reasonable; I also understand that under the influence of certain *zemindars* he has agreed to introduce certain changes. But the fact remains that the major part of the dumb millions have not yet been listened to. Although the *zemindars* always claim to be the representatives of the people, they should not have come to a compromise in this case without consulting the public. Therefore, I say that it is in the fitness of things that before this measure is passed into law, the general public should be given an opportunity to express their opinion on it. So I suggest that we should press this motion to a division and compel the Hon'ble Member to accept it if he is not agreeable to accept our suggestion. With these words I commend my motion to the acceptance of the House.

Babu JITENDRALAL BANNERJEE: Sir, may I ask the Hon'ble Member to make one point clear? The Hon'ble Member said that he was going to introduce certain amendments partly for the purpose of clearing up the position of Government and partly as a measure of compromise. We have been given to understand that one of the amendments relates to the period for which the improvement levy would be collected. Our contention is that the improvement levy should not be collected for any period beyond what might be required for recouping the capital expenditure by Government, and we have been given to understand that the Hon'ble Member has accepted this in principle. But there was no mention of it in his speech. Will he make that point clear now? Is he going to accept that principle or not?

The Hon'ble Khwaja Sir NAZIMUDDIN: So far as the Damodar and the Bakreswar Canals are concerned, I am prepared to accept that.

Babu JITENDRALAL BANNERJEE: The Hon'ble Member will perceive that that makes a great deal of difference.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move by way of amendment that the Bill be recommitted with respect to clauses 1, 2, 3, 5B, 6, 8, 8A, 12, 31B and 32.

Sir, in moving that these clauses be reconsidered by the Select Committee, I do not want to show any disrespect to my colleagues on that committee. From the Report of the Select Committee I find that the members devoted only ten days to this Bill—from the 13th of May, 1935, to the 22nd of May, 1935. We have also to consider that these ten days were spent in a hill station. To a man who has not the privilege to spend the summer in the hills the general impression is that hill stations are not places for carrying on serious work but for carrying on flirtations with files, if not with girls. (General laughter.)

Mr. PRESIDENT: Order, order. I must ask you to come to the point.

Mr. SHANTI SHEKHARESWAR RAY: I am coming to the point. My point is this, that a period of ten days in a hill station is not sufficient for a thorough and intelligent examination of this measure. Sir, this is a very important measure. It is a piece of legislation—though I am tempted to say that it is more of a piece of a big bluff—that the Government of Bengal intend to pass off as a measure designed for the benefit of the people of Bengal and, therefore, it should not be dealt with so lightly. The members of the Select Committee should have devoted more time to their work; but it is not yet too late; there is no hurry about the matter. If this Bill is recommitted with reference to these important clauses, and if they are considered in a place like Calcutta, Government will be in a position to receive advice, expert advice, as well as advice from representatives of public bodies who are interested in the matter. In that case, the committee will be in a better position to do their work, and their labours when placed before this House will be found less objectionable.

Sir, looking through this Bill, as amended by the Select Committee, I find that the measure still continues to contain more or less the same vagueness as regards the aims as well as the measures intended to carry out those aims. In a book which shows some signs of development and which has been circulated among the members—a thick blue-covered book—I find that Mr. Townend in his note has stated that the

underlying principle of this Bill is that when the productive power of land has been improved at the expense of the Government, the Government should be allowed to recover, for the public benefit, a share of the increase, just as, when an improvement has been effected at the expense of a landlord.

Sir, I have gone through the Bill and I do not find any support for this contention on the part of Mr. Townend. How can you say that the underlying principle of the Bill is as suggested by Mr. Townend, when by virtue of a particular clause you are enable to drag in even the profits of all lands not used for agricultural purposes? How he justifies his contention I do not know. Sir, this one sentence in the Bill is fraught with great mischief. It may put into the hands of the future Governments of Bengal powers which they may misuse; and, Sir, who does not know that even Governments are sometimes tempted to misuse their powers when they are placed in a tight corner. We know from our own experience that the Bengal Government have done so in the past, and it is not an idle fear that they may do so in the future. So, I am inclined to think that the chances of misuse are greater in the future than in the past. This is one of the important points on which I want examination by the Select Committee and by the Government of Bengal. The time is past when Government can befool people by ostentatious statements. The Hon'ble Member in charge of the Bill when introducing the measure at the last session waxed eloquent on the amount of support he had received from the Press. Well, Sir, I agree with him that at that time he received some support. It is possible to befool the Press for some time, but, Sir, after the implications of the Bill were pointed out in this House, the tone of the Press has changed; and I invite the Hon'ble Member in charge of the Bill to go through the Press cuttings of the last few days in connection with this measure. I am sure that he will find no support of this measure anywhere; instead he will find condemnation on all sides. The people have seen through the game: the bluff has failed, and it is time for the Hon'ble Member to realize that.

Sir, I do not want to go into details once again here, because most of the objectionable features were pointed out and discussed when the Bill was before us in March last. These objectionable features still remain; but what is worse is that certain additional features have been incorporated which also seem to be objectionable. For example, there is the new clause 5B in which there is the suggestion for the imposition of this tax and that, too, without the sanction of the Bengal Legislative Council in certain areas in Burdwan. I am sure that on examination by the Select Committee this objectionable feature will be dropped. As a matter of fact, the Hon'ble Member in charge of the Bill has, more or less, given in on some points—perhaps, anticipating the storm of opposition that would be raised against this part of the Bill.

Sir, I do not want the Hon'ble Member in charge of the Bill to think that simply by making a concession on this point or that point he would be able to split up the opposition and that he would be able to carry this measure through this House and thus earn the gratitude of Government.

The Hon'ble Khwaja Sir Nazimuddin used to be a popular representative before he was elevated to his present position. I appeal to him, though he is now *inside* the irremovable part of the Government, that he should have some respect for public opinion: he should take into consideration the views of the public that have been expressed during the last few days since the implications of the Bill have come to be realized by the people, and accept this proposal for recommittal whereby he will have an opportunity of giving in with grace.

With these few words, Sir, I commend my motion to the acceptance of the House.

Dr. NARESH CHANDRA SEN GUPTA: On a point of order, Sir, there are two other motions for recommittal. Would it be convenient to take all these motions together, because it might be that if this motion is lost, my motion No. 9 might be outvoted.

Mr. PRESIDENT: Do you want to move your motion at this stage, and do you suggest that there should be one discussion on all these? I think that could be done.

Babu JITENDRALAL BANNERJEE: That has been the general practice, Sir.

Mr. PRESIDENT: I think this can be done. But what about Nos. 7 and 8? I think they are not important, because Nos. 1 to 5 are all for recommittal, and in 7 and 8 only a particular date has been mentioned. But do the intending movers thereof insist on their motions being moved? Perhaps this may not be necessary.

The House agreed that Nos. 7 and 8 need not be moved.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I beg to move by way of amendment that the Bill be recommitted to the Select Committee with instructions—

(1) to incorporate therein suitable provisions for the framing and publication of improvement schemes on the basis of which the improvement levy is to be made, after full consultation with the people likely to be affected thereby,

(2) to provide that no action shall be taken under this Bill for declaring a notified area or assessing an improvement levy until the full details of the scheme of improvement have been made available to the public and the people affected,

(3) to make suitable provision for an expert and independent tribunal to decide on all questions affecting the valuation of improvements, assessment of the levy and compensation for injury or injurious affection after suitable enquiries made on the spot, and to provide that the adjudication by such tribunal shall have the force and effect of a decree under the Civil Procedure Code,

(4) embodying in the Bill provisions determining the principles on which exemption or remission of improvement levy may be granted.

I move this motion with a full sense of my responsibility. This Bill is a measure of the utmost importance to the province and a measure by which we have been proposing to give powers to the Government to force down the throats of the people schemes of improvement which might prove very useful, or might prove disastrous. This is a measure upon which will depend in a great measure the financial and economic position of the country in the future. Upon it will depend the fate of millions of our countrymen, the producers of our wealth, and of all classes of the community. It is of the utmost importance therefore that this Bill should not be passed without the fullest deliberation upon all possible aspects of the question. Now, Sir, I do not cast any reflection upon the members of the Select Committee, nor do I say that they have shirked their duty. They did their best. But I shall take the opportunity of pointing out some items in respect of which the Select Committee has done nothing, and these are items which require attention, and items for which no provision can be made by any amendments which may be moved in this Council. Take, for instance, the first one, the proposal for the incorporation of provision for framing publication of improvement schemes and taking public opinion thereon. It would not be done by a single clause by way of amendment of a single clause or clauses. The members of the Select Committee have tried to improve this Bill by adding in the preamble the words "whereas it is expedient to provide for the development of lands in Bengal, and for that purpose to impose a levy in respect of increased profits resulting from improvement works constructed by the Government," in the place of what was merely "with a view to levy rates." Well, they had very good intentions in doing so. They wanted that this Bill should be primarily a Bill for the development of the province. But they have not carried through their virtuous resolution right through the Bill, and in the Bill itself there is not a single provision made with a view to regulate the manner in which

the improvement schemes are to be settled. Well, Government's answer would be very easy. Government's answer is: "All that will be done by our departments." Sir, I crave pardon when I say that we are not in a position to have that absolute and utter confidence in the departments that Government demand of us. The department has been in existence for some years, and even before the department was started, there were expert irrigation officers, and they have a record of work in the province which will not redound to the credit of any Irrigation Department. Sir, we have had white elephant schemes launched on us—we have had the Eden Canal, not to speak of the Midnapore Canal, which is a legacy of the past. We have had the Damoodar Canal, the Bakreswar Canal, schemes which have been condemned by not less an authority than Sir William Wilcox, schemes which have been damned with faint praise by the advocates of Government, and schemes the benefits of which the people of the locality appreciate so little that the Government finds it difficult to get the people to take water to the extent to which it will be necessary in order to make these schemes pay. We do not want that schemes should be laid, hatched and bred in the offices of the Secretariat without the knowledge of the people, without consultation with the people who will be affected thereby, and with the inevitable result that when the scheme is carried into execution, the people could find no profit from it. I want every improvement scheme upon the basis of which a man lives should be thrown open to discussion and consultation with the people to be affected by it. Discussion by the Legislative Council, 99 per cent of the members of which are not interested in the scheme in a particular area, would be futile. These schemes must be placed for discussion before the people who are going to be benefited or injured; I want those schemes gone into on the spot, and in consultation with the people by experts who are capable of dealing with all the questions which arise. Some such scheme must be devised and incorporated in this Bill because Government can be authorised to make an improvement levy.

The next thing is the proposal that no action can be taken until the full details of the scheme of improvement have been made available to the public and the people affected. The provisions of the Bill on this matter are delightfully vague. Any improvement scheme which has been or may be introduced will be an occasion for a notification of an area, and the language of this Bill, which will have to be discussed when we come to the particular amendment, is so delightfully vague that it will be possible for the Government to formulate schemes and work out the details in the rooms of the Secretariat, and thrown out amongst the people so that one fine morning they will find themselves in a notified area and liable to pay the improvement levy. I want that this matter should be fully discussed, and provision made for the full, complete scheme being placed before the people and the opinion

of the people taken thereon before a decision is arrived at on the scheme which will inevitably lead to the levy of an improvement rate.

Then, the most vital thing of all is the question of assessment of the levy or compensation for injury or injurious affection after suitable enquiries made on the spot. I have spoken before on this. The Bill has been amended by the Select Committee in certain respects, but still the fact remains that in the case of agricultural lands, none of these vital principles affecting the property of the people will go before any court of law, or any independent tribunal which has got the necessary qualifications to win the confidence of the people. The Collector will be all-in-all and the Commissioner will be the Court of Appeal; their decision will be final subject to the power of revision by the Board of Revenue. That is what we do not want. If the Government think—well I do not agree with them—that the machinery of the Civil Court is too frightful for them, and they do not want to go to the courts, let them have a tribunal which will carry the confidence of the people, a tribunal consisting of persons capable of judging these matters, to go to the spot and make enquiries in the presence of the people, and in such a manner that the people will be convinced that justice will be done. Such a tribunal cannot be incorporated in this Bill by a simple amendment moved in this House. For that purpose we will have to go into elaborate details. That is a matter only to be considered in Select Committee if this be recommitted.

Then, there is the provision in this Bill for giving remission, partial or complete exemptions, or remission of improvement levy, in accordance with the rules framed. Why on earth by rules framed? Why should not the Bill provide for the principle upon which exemptions are to be given. I do not say that every particular case should be provided for, but the principle should be stated here. In the Bengal Tenancy Act principles are laid down upon which an enhancement of rates should be assessed. In the case of this important levy, not only is it the question of enhancement and assessment of the levy, but the question of the levy itself is to be left entirely to the discretion of the Collector, and Government by rule can exempt any and everybody from the operation of the levy. This is not what we want. Do you want that Government should have a definite and ascertained income from the improvement scheme? If this is so, it must be based on certain definite calculation and certain principle applicable to everyone, and not leave the whole thing in a state of utmost uncertainty leaving it to the discretion of the Collector to exempt or remit any portion of the improvement levy.

Sir, I do not want to say that this Bill has been framed or carried through the Select Committee in a hurry or in a haste, or least of all, out of malice to the landlord. On the contrary I believe every one of

the members of the Select Committee and Government were actuated by a genuine desire to do good to the agriculturists of the province, but I am afraid their enthusiasm has got the better of them. They are too much in a hurry and too little inclined to consider all the aspects of this very important problem with the amount of deliberation that it deserves. I welcome a measure of this character because, above anything, it shows that Government are willing to take courage in both hands and to force benefits upon the people if need be, in the true Bolshevic spirit, a spirit which frightened my friend the Hon'ble Minister for Agriculture. I welcome the measure for that reason as the times are long past when we could rely upon holding up our hands and depending upon the competitive spirit of the individual. The world is moving on very different lines now. We have got to plan our improvements to benefit the people, to do good to the people by force, if necessary. The spirit behind this Bill is that, but it must be a benefit which you are going to give and an assurance of the benefits must be contained in the Bill, and it is because I fail to find that assurance and it is because I discover the shadow of the cloven foot in the new proposed section 5(B), that I want that the matter should be fully considered in the light of the observations I have made in my amendment. This clause 5(B) gives away the whole show. If any improvement levy is to be made clause 5(A) provides that it should not be started except on a resolution of the Legislative Council recommending the measure, but when it comes to the Damodar scheme or the Bakreswar Canal or the Eden Canal, no such opinion of the Council will be required. On the last occasion when this Bill was before the Council and when I suggested that the wording of the Bill would enable Government to levy be improvement rate on non-agricultural land as well as on their misconceived schemes which had launched them into distress, I was told by a high official that that was not conveyed by the Bill and that that was not the intention of the Bill. When the Select Committee apparently introduced an amendment in section 5(A) Government found that the whole show was gone and they introduced section 5(B). What is the purpose of this? Sir, an unbeliever, who has not ample confidence in the good-will of Government may be pardoned in saying that this proposal, this promise to develop the decadent areas in Bengal, is an eye-wash, and more than an eye-wash. The real object is to make the bad financial propositions with which Government have burdened themselves in the Damodar and Bakreswar schemes paying. Sir, I am not one of those who think like that. I have much greater confidence in the Government than that, but there is this provision staring us in the face and you cannot blame the critic who says so. If the Government is really in earnest and if Government has got that amount of earnest desire with which I wish to credit them, let them accept my amendment and go into the question over again; let them make the measure acceptable to the people. This is

an opportunity which I am offering them, an opportunity of co-operating with every person in this House as well as outside it, who has the welfare of the country at heart.

Babu KHETTER MOHAN RAY: I beg to move, by way of amendment, that the Bill be recommitted to the Select Committee with the following members added to it:—

(1) Babu Satish Chandra Ray Chowdhury,
(2) Maulvi Syed Majid Baksh,
(3) Khan Sahib Maulvi Mohammed Basir Uddin,
(4) Khan Bahadur A. F. M. Abdur-Rahman,
(5) Rai Bahadur Satyendra Kumar Das, and
(6) Myself.

I leave out one name only as I have not received the consent of that member, namely No. 2, in the original amendment.

Mr. PRESIDENT: You must understand that this motion of yours will automatically fall through if the Council refuses to recommit the Bill.

Babu KHETTER MOHAN RAY: Of course, I know that Sir.

Mr. President, Sir, the Development Bill was ushered into existence with a flourish of trumpet that the Bill was intended to develop the decadent areas of Bengal by letting spill water laden with rich silt flow over land, resulting in increased outturn of lands. Great hopes were raised in the minds of people. People believed that the Government had some well-thought-out schemes or projects for development of the decadent areas for immediate execution. When the Bill was introduced in the Council, it was apparent that the Bill was not so much for making provisions for schemes of development or improvement as it was for sharing increased profits by the Government resulting from the improvement work. In the Statement of Objects and Reasons, the Hon'ble Member referred to the case of the United Provinces Government sharing in the increased profits in the shape of increased rents. As the Government are not able to realise increased rents in Bengal, they want to impose a levy as contemplated in the Bill. A note recently issued by the Development Commissioner states that the underlying principle of the Bill is that when productive power of land has been improved at the expense of the Government, the Government should have powers, for the benefit of the public, to appropriate a share of the increase on the analogy of the right of the landlords getting enhancement of rent on the grounds of improvement of productive power under sections 33 and 34 of the Bengal Tenancy Act of 1885.

Sir, we are opposed to the principle of imposing a levy in the shape of sharing increased profits of land by the Government for the benefit of the public. An improvement levy may be imposed to cover the costs of the capital works and their maintenance. As soon as costs are covered, the levy should cease to be imposed. Whenever the improvement ceases to benefit the land or whenever the crops suffer, the levy should not be imposed. In short, this levy should not go to swell the general revenue of the province. In other words, we disapprove the profiteering policy of the Government.

Non-agricultural lands should not come under the operation of this Bill. I cannot understand how non-agricultural lands, such as residential places, bazar, garden, etc., will be benefited by flow of spill water through certain areas. The improvement works as contemplated in the Bill are no other than exacavations of canals, *khals*, etc., and exacavation of dead or dying rivers, so that water may flow in definite channels inundating lowlying arable lands. If this be the object of the improvement, I do not see how the non-agricultural lands will be improved by such work. If any such areas are improved directly or indirectly, the quantity of such areas will be insignificant. In any case, non-agricultural lands should be excluded from the operation of the Bill, or else it will prove to be a veritable source of oppression to the people.

The provisions of this Bill, I may be permitted to point out, which assign half of the increased profits for improvement, do not on examination bear any analogy to the provisions of sections 33 and 34 of the Bengal Tenancy Act. Though he has not hesitated to base the underlying principle of the Bill on the improvement sections of the Bengal Tenancy Act, the learned Development Commissioner must have perceived the wide distinction between the provisions of sections 33 and 34 of the said Act and the provisions of the present Bill. As the hon'ble Development Commissioner has taken his cue as regards his principle from those sections of the Bengal Tenancy Act, why should he not copy them *in toto*? I have had some experience of working of these sections as a lawyer, and I can say that these sections are provided with certain salutary safeguard against the arbitrary exercise of powers conferred on landlords.

The Hon'ble Member in charge of the Bill and the Development Commissioner conveniently have lost sight of the fact that section 33 of the Bengal Tenancy Act provides that the Court must consider such important factors as the cost of cultivation necessary for utilising the improvement in question and the existing rent and the capacity of the land to bear a higher rent. There are further provisions that in case the improvement does not produce or cease to produce the increased estimated profits, the Court shall reconsider the decree for enhancement of rent that might have already been passed. Any temporary or casual

improvement shall not be taken into consideration. The provisions of this Bill have instead practically ousted the jurisdiction of the Courts. Though the occupiers of land have been given a right of appeal not to the Law Courts but to the Divisional Commissioners to contest the liability to the levy and its amount, with power to carry the matter to the Board of Revenue in revision, this right of appeal is more of an illusory character than a substantial and valued right. Everything has been left to the discretion of the executive officers. This so-called right of appeal is a poor substitute for the right of appeal to the Law Courts. The Hon'ble Member said in introducing the Bill, if the occupiers of land were given the right to contest the orders of the "Collector" in Civil Courts, the work of development would be hampered by vexatious legislation. This is no argument for depriving the people of the ordinary right of appeal to the Civil Courts. If this be the accepted principle of the Government, the Government will some day urge for the abolition of the Civil Courts and in its place for substitution of the valuable discretionary powers of the executive officers. Another objectionable feature is that the Select Committee has given retrospective effect to its provisions in respect of certain works already executed. I emphatically protest against the inclusion of these within the purview of the Bill.

There is no provision in the Bill to exempt from the levy those lands which do not actually produce any increased profits. As regards the estimate of the average increase in the profit of the land, determination of the liability of "occupiers" to the improvement levy and the amount of such levy, setting up of the appellate authority, the procedure to be followed in granting abatement, remission, and for recovery of levy and for granting damage, or compensation, are left to the executive officers and the rule-making powers of the Government. In short, the functions of the Legislature and the Law Courts are proposed to be usurped by the Government and their executive officers on such important and vital matters as pointed out before.

These and other matters too numerous to mention here should be carefully considered and necessary amendments made and this can only be done by sending the Bill to the Select Committee which will carefully examine those matters and make necessary amendments.

(At this stage the Council was adjourned for 15 minutes.)

(After Adjournment.)

Babu KHETTER MOHAN RAY: Sir, a week's time will be quite sufficient for the Select Committee to go thoroughly into these matters. This will not retard the progress of the Sessions for any considerable length of time. It seems that many of these matters have not been considered by the Select Committee. Besides, the Select Committee

will have the advantage of reviewing the Bill in the light of the amendments already tabled, and they may be asked to submit their Report within a specified short time. As it is an important Bill, it should not be hurried through the Council. The Hon'ble Member in charge of the Bill declared that he was willing to amend the Bill on certain important aspects, but these did not go far. Besides, these amendments can best be considered and incorporated in the Bill by the Select Committee. For all these reasons, I oppose the motion of the Hon'ble Member that the Bill be taken into consideration and move my own amendment for recommittal of the Bill to the Select Committee.

Maulvi SYED NAUSHER ALI: Sir, I beg to support the motion for recommittal. The grounds for this recommittal have been given in detail by Dr. Naresh Chandra Sen Gupta and others who have spoken before me, and I think the House has by now been convinced of the necessity for recommittal. Sir, I shall only add a few words to what has already been stated. I speak with a certain amount of diffidence as I have not had the opportunity of studying the Bill as closely as I should have done, but I think that even a cursory glance at the Bill is quite sufficient to convince anybody that it is a Bill which, if passed into law, will for ever remain a dead letter like the Primary Education Act. Our heart leaped with joy when we heard of the prospect of the development of the decadent areas of Bengal exactly in the same way as our heart leaped with joy when we heard of the introduction of compulsory free primary education in Bengal. Compulsory free primary education is now a matter beyond the range of practical politics. We are told that money is not available and that without the imposition of an education cess it is not possible to introduce compulsory free primary education. The aim of Government is not so much to develop the decadent areas as to levy a tax. Just now we were enquiring from the Government as to whether they would agree to cease collecting taxes after the capital expenditure on works shall have been recouped, and the reply we received was an emphatic "No". This should convince anybody that Government in their bankruptcy have been searching for fresh sources of revenue, and herein they have found one. Government have been imposing taxes on all articles of daily use by the poor people. They have passed legislations imposing taxes on electricity, tobacco (A VOICE: On poverty), on almost everything that is of daily use by the poor people, and here is another opportunity availed of by Government, for imposition of a tax on land for good. It will be a permanent source of revenue to the Bengal exchequer in the shape of a tax which is going to be imposed by a body which does not represent the country, which does not represent the people at all. We have seen a busy season of Legislature in this Long Parliament of Bengal whose life has been extended from time to time on the ground of impending Constitutional

Reforms. The people sent the present members to the Council for three years and they are there for seven years and as such do not represent the views of anybody at all, and we object to any taxation being passed by this House at the present time. I do not see any reason whatsoever why we should be in a hurry to impose a tax this year. We might very well wait for the next reformed Council where the real representatives of the people will come, and decide the best course. There seems to be absolutely no reason——

Mr. PRESIDENT: What do you mean by real representatives? I think you had better withdraw that expression.

Maulvi SYED NAUSHER ALI: If you direct me to withdraw it, I will do that, but what I really mean is that this House has ceased to be representative—

Mr. PRESIDENT: Order, order. I cannot allow you to cast any reflection on the House. You cannot expect my indulgence while you are committing suicide.

Maulvi SYED NAUSHER ALI: My real idea is to point out that the next Council will be more representative than the present one.

Mr. PRESIDENT: You had better leave that point. The House cannot but resent it.

Maulvi SYED NAUSHER ALI: I have given it up, Sir. What I was saying is that it would be better for the present Council not to consider this measure, not to pass this Bill which affects the masses, and it would be better to wait till we have representatives of the masses in larger number and on a wider franchise in this House. That was my whole object, and even if we pass this Bill to-day, as no schemes can be carried into effect before the Reformed Council comes in, I am afraid, the provisions of this Act will for ever remain a dead letter. It is the most inopportune moment to consider the Bill in this House. At this stage it is not possible to move an amendment to throw out the Bill altogether, and that is why I am supporting this motion for recommittal. I am in favour of throwing out the Bill at the present moment. As I have said, the Government in its financial bankruptcy has been looking for different avenues for new sources of revenue. The idea is that schemes will be carried out by Government at their expense and the capital expenditure will be recouped within a certain number of years; and even when the principal with interest has been recouped, the tax will still continue to remain in force on the poor people of Bengal, and why? Government are fully aware that they cannot increase the revenue from the *zemindars* because their

estates are permanently settled. Therefore, they want to impose another tax on the poor people who must pay for the improvement permanently and for good? This is an indirect way of enhancing the rent of the poor cultivators without making the landlords liable in the least. It is the duty of the landlords to see that the lands are improved. My friends say that they have got the absolute right of getting the enhanced rent from the tenant——

Mr. PRESIDENT: Maulvi Sahib, I am afraid you are off the rails.

Maulvi SYED NAUSHER ALI: Very well, Sir. I was referring to it as an analogy. I submit that it is the duty of Government to see that the poor people do not suffer and they get a return for their labour. They should get sufficient for their food and clothing. I further submit that it is the duty of Government to effect the improvements at their own cost for the benefit of these poor people. I would, however, be agreeable that the people should pay the interest on the capital expenditure on these works of improvement; but I see no reason whatsoever why they should be burdened with permanent taxation so long as they hold their land. In this connection I may point out that it struck me as an amusing contradiction—an inconsistency—in the Hon'ble Member's statement, viz., that he will be prepared to accept this modification, in the case of Damodar and not in the case of others. That is to say he would not recover any further sum after the capital cost shall have been recovered so far as the Damodar Canal is concerned; but not so in the case of the others. Sir, I do not see any reason or any logic in this. I could, however, have understood something of logic if the Hon'ble Member had stated that in respect of the works which had been constructed before this Act come into force there will be that compromise. But I do not understand the reason for the special, differential treatment in the case of a particular work and not in respect of the others. I for myself have not been able to see any reason for it, and I would ask the Hon'ble Member in charge to enlighten us as to what has induced him to accord differential treatment in the case of a particular scheme and why the same treatment should not be conceded in respect of other schemes. I must make myself absolutely clear to this House: I think it of the utmost vital importance to the Government as well as to the people of the province that schemes of this nature should be undertaken and in order to enable Government to do so a measure should be passed into law—a measure which will not remain a dead letter but a measure which will be workable and can be worked—and I am anxious to see a measure of this description passed. But I am afraid that if the Bill as drafted even with the modifications suggested be passed, it will never be workable and not worked. (A VOICE: Are you a prophet?) I am not a prophet, but I have got to make this prophecy. (Laughter.) My friends may laugh,

but they will see that my prophecy will come true. As I have said, Sir, I am anxious to see that a Bill of this nature is passed, but at the same time I want to see that the passing of an Act of this nature may not be a hinderance to further action on this line. If the present Bill be passed into law to-day, I am sure the result will be that the matter may not come up in a definite and workable form in the near future. That, Sir, is one of the main reasons why I think it will be better to wait. If, however, it be in the heart of the Hon'ble Member in charge to do good to the people to have such an Act passed now which could be worked, I think he will agree in the proposal for recommittal of this Bill.

Now, Sir, as I have already said, the Bill has been drafted most unsatisfactorily and no amount of amendments in this House will make it workable or practicable. Therefore, I submit that it is desirable in the interests of both the Government as well as the people of the province that the Bill should be recommitted for a thorough and fuller consideration by a Select Committee, so that the measure may come before the House in a workable and practicable form.

Babu JITENDRALAL BANNERJEE: Sir, the case for sending back this Bill to the Select Committee seems to be overwhelming. This is not to say that we are opposed to the principle of the Bill or that we are opposed even to the main features of the Bill. The advocates of Government sometimes try to make it appear that those who press for recommittal must, in the very nature of things, be opposed to the principle of the Bill. Nothing whatever of the sort. I agree entirely with Dr. Sen Gupta in accepting the main underlying principle of the Bill—its cardinal and governing principle—viz., the principle of compulsion. I believe with him that people should be compelled to fall in with development plans even in their own despite. The days of unfettered individual discretion—of letting each social unit do just as it likes—are gone: planned, disciplined, regimented economy is the order of the day: and you cannot have planned economy without compulsion. The principle of compulsion is a wholesome and most necessary one—especially in the present case where decadent areas are involved. But I do not agree with Maulvi Nausher Ali in some of the wild and whirling statements that he has made. I do not believe that this is a taxation measure, and it was fantastic of him to suggest that the Government have entered into an unholy alliance with the landlords with the purpose of making this Bill more obnoxious than it was. I am quite sure that Maulvi Nausher Ali, in his heart of hearts, does not believe in these charges. He does not like some of the provisions of the Bill; nor do I. I say that the case for recommittal is overwhelming, and I shall try to make out my case even from the speech delivered by the Hon'ble Member to-day in

introducing the third reading of the Bill. It appears that the Hon'ble Member has made certain changes in the framework of the measure and that these changes are deviations—in many cases marked and important deviations—from the recommendations of the Select Committee. The Select Committee recommended that non-agricultural lands might be included within the purview of the Bill. To-day, the Hon'ble Member has told us that he will introduce certain amendments which will exclude non-agricultural lands altogether. I approve entirely of this charge. It is all to the good that he should do so. All the same, there is no concealing the fact that he is going right in the face of his Select Committee. The Select Committee sat at Darjeeling for more than 10 days; they considered the matter thoroughly and produced their report. And now the Hon'ble Member is going back on the report of the Select Committee, without giving them an opportunity of reconsidering the matter. The Select Committee made certain suggestions also as regards a levy a sort of capital levy upon the *salami* to be paid to the landlord on the occasion of resettlement of *khash* lands. Here, again, the Hon'ble Member has made a very important change—a change entirely dictated by the interests of the landlords and not calculated in any way to benefit either the people or even the Government, for whose interest he pretends to stand.

Also, the Select Committee drafted clause 5A in a particular way. The Hon'ble Member has to-day stated that he has introduced a very marked and important change in this clause He has told us that, under the amendment proposed, in future, even before a single pice has been expended on new works, the opinion of the legislature will be taken a very wholesome and desirable change indeed! All the same, it is a change which goes right against the recommendations of the Select Committee

Lastly, Sir, the Hon'ble Member proposes to introduce certain changes as regards clause 5B. The Select Committee very unjustly and very unfairly recommended that the Damodar, Bakreswar, and Eden Canals should be brought within the purview of the new Act. The Hon'ble Member to-day has announced certain changes, especially with reference to the Damodar Canal. I do not know whether his generosity will extend to the poor Bakreswar Canal also or not—he was inaudible on that point. But, in any case, here he has made an important change, perhaps for the purpose of conciliating the formidable body of opposition that was coming up from Burdwan. Burdwan has to be conciliated because it is a district which is influentially represented in this House (Hear, hear), whereas Birbhum and other districts may be neglected because they are not so influentially represented. (Ironical cheers of 'Hear, hear'). This is an important change, and the Hon'ble Member has himself initiated the change. Such being the case, he is himself making important departures from

the recommendations of the Select Committee. Is it not right, is it not fair, is it not equitable, to the members of the Select Committee that they should be given a further opportunity of examining the new changes which the Hon'ble Member has to-day sprung as a surprise on the floor of the House? What is the procedure adopted by the Hon'ble Member? He submits the report of the Select Committee before the House; and in the next breath he waves a sort of magic wand and says: "I shall delete, I shall abandon most of these recommendations; I shall change them beyond recognition altogether." And yet it is the Bill as drafted by the Select Committee which is supposed to be under discussion in the House! In these circumstances, Sir, I hold that it is a moral obligation on the Hon'ble Member not to play with the House—not to play with the Select Committee—but once again to submit the Bill before the same Select Committee in order that they may reconsider the changes that he now introduces.

But apart from the Hon'ble Member's speech, there are certain other features of the measure which require consideration. For instance, I have already mentioned the case of Damodar, Bakreswar and Eden canals. So far as the proposals of the Bill are concerned, there is a great deal of injustice going to be done to the people living in the areas of these canals. The Eden Canal was constructed in 1882, more than 50 years ago. During all this time the people have been paying water-rate on a certain basis. When the canal was constructed, the people were never given to understand that the time would come when they would be compelled to take water, and would be compelled to pay for it. The same was also the case with the Damodar and the Bakreswar Canal. In bringing these three canals under the purview of the Act, the Government has been guilty of a gross breach of faith with the people of these areas. You are taking the people by surprise because of the power you have got, and not because you have the right to do so. In the case of the Damodar Canal, the breach of faith on the part of the Government will be still more significant. Only last year responsible officers of the Government entered into an agreement with the people of the canal area by which they would be given water at the rate of Rs. 3-8 per acre. That was the agreement entered into by responsible officers of the Government—I challenge the Hon'ble Member to contradict my statement—and yet at the end of the year, Government have entirely turned their back on the agreement, and refused to register the deeds. In the case of private persons, this would be called a piece of sharp practice. In the case of the Government, I do not know how to characterise it. (A voice: "Dishonest".)

In the case of the Bakreswar Canal, there is something worse. The Bakreswar Canal suffers from a chronic want of water—rather a major defect in the case of a canal. A canal is supposed to supply

water, but the Bakreswar Canal regularly and systematically fails to do so. When there is water, water everywhere, and nobody requires it, there is water in the Bakreswar Canal also. But when everybody is in want of water, when people are crying and yearning for water, there is not even an inch of water in the canal. The history of this nefarious project ought to be known to the Government, because the Bakreswar Canal was constructed, despite the philanthropic professions of the Government, not for the benefit of a particular area, but for the benefit of an individual. The individual has been benefited, but the district at large has had to pay for the benefit. That has been the effect of the policy of Government in the past. Do not try to remedy your faults in the past by committing fresh faults in the future. The folly of the Bakreswar Canal has cost you 4 lakhs. Do not try to redeem it by committing a more gigantic folly which will cost 2 crores of rupees—your so-called necessary project. I ask you to pause, to have a respite, to reconsider the matter at leisure before embarking upon this further project. The Bill is important, no one can possibly deny it, but there is no urgency about it. Bengal is not going to die next morning unless the Hon'ble Minister can pass his Bill overnight. There is no such acute urgency about the problem, and Government will lose nothing if they give themselves a respite during which they can reconsider the Bill at their leisure, with more freedom, with greater wisdom and with more circumspection.

Sir, I support the motion for recommittal.

Maulvi ABUL QUASEM: Sir, I rise to support the motion for recommittal. It may be known to some members of this House that Lord Macaulay in his Essay on Byron has described the British public in one of its periodic fits of morality. During one of such fits Lord Byron was the victim. He was accused of certain unspeakable enormities and the British public hounded him out of England. He never came back alive. After that the British public went to sleep for a further period of years during which even greater enormities went unnoticed. Our bureaucratic Government, which is now literally on its last legs, has been seized also with periodic fits of legislative activity for the so-called benefit of the people. They would pass legislation; they would go to sleep over it; they would not bring it into operation. Take the Bengal Primary Education Act. It was ushered into existence after a great fanfare of trumpets with the proved assertion that Bengal must be given free and compulsory education. We were led to expect that illiteracy was going to be abolished out of this land. Sir, then there followed the economic depression, which shows a persistent determination to stay in Bengal, and God knows when that Act will be brought into operation. Take again the case of the Bengal Waterways Act. We were told that the dead and

decadent rivers of Bengal would be committed to the charge of a Waterways Trust. I ask, where is the Waterways Trust? What has Government done so far to bring the machinery devised in that Act into existence for reviving the dead and dying rivers of Bengal? Government has gone to sleep over that Act. Now, Sir, we are presented with a Bill with high sounding name—the Bengal Development Bill—a greater misnomer I have never come across in my life. About the name of the Bill I have given notice of an amendment on which I shall have to say something later on. Well, Bengal is not going to be developed by this Bill. The Bill assumes that development has taken place. It only provides for a levy from the people to which Government is so very accustomed. When the development will take place no body knows. The Development Commissioner during the last nine or ten months of his activities has produced this Bill. I do not cast any reflection on him. His activities are worthy of all praise. He himself has said in his note which he has prepared and circulated to the members of this Council (I refer to page 4, last paragraph) that "It must be realised that the Irrigation Department as at present constituted would not be able to carry out irrigation and drainage schemes of any real magnitude. There would have to be expansion and reorganisation first. Also in all cases there would have to be thorough surveys of the various districts before schemes could definitely be framed for revival of dead rivers. The projects contemplated would be the work of *years*." I emphasise the word "years." Then, why, this hurry about this Bill? I repeat the question put by Mr. J. L. Bannerjee. You are providing for a levy when your development will have taken place. You yourself said that it would be a work of years: it will require reorganisation of the department to be charged with this vast, gigantic and priceless task; You have no scheme of irrigation ready. Why do you ask this Council, which has only a year's life left to pass it? By this time next year the Council will have breathed its last.

(VOICE: No, no, not next year.)

Well, Sir, why do you ask this Council to pass the Bill which has got no immediate utility, no immediate importance? Why do you waste the time of this Council and public money by discussing and passing measures which have got no immediate usefulness? I do not see why this Council should be asked to waste its time for this. As Mr. J. L. Bannerjee and other speakers have pointed out, there are cardinal principles involved in the Bill over which there is sharp difference of opinion. For instance, I refer to the question put by Mr. Bannerjee, the question whether it should be a permanent measure of taxation or whether Government will only recover the capital expenditure and interest. Sir, this is a question which the representatives of the people in the new legislature, who will come on a wider

franchise and will be more representative than this Council is, should be left to decide. If this Bill is not passed by this House the heavens will not fall, and Bengal will not revert back to jungle, notwithstanding what has been said in the Statement of Objects and Reasons. If Government are anxious to recover some money in connection with the Damodar, Bakreswar and Eden Canals, let them bring forward a fresh legislation for that purpose alone. The Irrigation Department in Bengal has got a black name. Sir, no one has been a more uncompromising critic of this department than the Hon'ble Maulvi M. Azizul Haque, who is now a Minister of the Government. No department has a more black record than this particular one. I have no faith in the department as it is constituted now. The Irrigation Department has to be enlarged and reorganised before it can be depended on. The Irrigation Department records are said to be brilliant in other provinces, such as the Punjab, and Sind, where the desert is said to have made to bloosom as the rose. Mr. Bannerjee has been very bitter about the Bakreswar Canal. Everyone wanted water when there was no water to be had from it. If this is the record of the Irrigation Department, we do not desire that any scheme should be taken by that department. Let before it is reorganised and better staffed, responsible Government come and take up the question. The new Council will have to work according to the wishes of the people and that will inspire confidence. I do strongly support the motion for recommittal. I wish I could send it back for circulation.

Rai Bahadur SATISH CHANDRA MUKHERJI: I support the amendment that the Bill be recommitted. I do so not for the reason that I am opposed to the Bill, but for the reason that I am satisfied that it will not at present benefit the people. The case for the recommittal of the Bill has been admitted by the Hon'ble Member by admitting that the Select Committee proposes to bring the non-agricultural lands within its purview. That admission, I submit, has well established the case for recommital of this Bill. But I venture to say that there are provisions newly introduced by the Select Committee in the Bill and other provisions not carefully scrutinised by the Select Committee which make it desirable that the Bill should be recommitted. The Bill when introduced by the Hon'ble Member was explicitly said to be for prospective schemes and not for any past scheme. It was in the Select Committee——

Mr. H. P. V. TOWNEND: May I point out that in the Statement of Objects and Reasons it is said that it might be retrospective? The hon'ble member is misleading the House.

Mr. PRESIDENT: Why do you say that he is misleading the House?

Mr. H. P. V. TOWNEND: The member states that the words "retrospective effect" were not in the original Bill. But I may draw the attention of the House to the Statement of Objects and Reasons which will show that it is not so.

Mr. PRESIDENT: Do you mean to say that the member is making a statement which is not based on facts?

Mr. H. P. V. TOWNEND: Yes, Sir. His statement is quite contrary to the statement contained in the Objects and Reasons of the Bill.

Mr. PRESIDENT: I think the Rai Bahadur referred to the Hon'ble Member's speech. What is that? He should not make a statement which cannot be supported by the facts of the case.

Rai Bahadur SATISH CHANDRA MUKHERJI: I do not think that that is so, because my reading of the Hon'ble Member's speech gave me that impression.

Mr. H. P. V. TOWNEND: This impression is, however, contradicted by the Statement of Objects and Reasons.

Dr. NARESH CHANDRA SEN GUPTA: What about the Hon'ble Member's speech?

Rai Bahadur SATISH CHANDRA MUKHERJI: As a matter of fact, I was referring to the Hon'ble Member's speech in introducing the Bill. Then, we, at least on this side of the House, understood that it would not have any retrospective effect, and it was meant to refer to prospective schemes only. If it had not been so, then there would have been no necessity——

Mr. PRESIDENT: Do I understand that that was merely your belief or did the Hon'ble Member actually use words that would convey the sense?

Rai Bahadur SATISH CHANDRA MUKHERJI: That was my impression.

Mr. PRESIDENT: If you are not sure of it, you had better not refer to that. Is the Hon'ble Member in a position to contradict the statement of the Rai Bahadur?

The Hon'ble Sir JOHN WOODHEAD: May I draw your attention to the fact that the speech of the Hon'ble Member emphasised the fact that (reading from the proceedings) "the Bill is also intended to apply to the rural areas where schemes of improvement have only recently been carried into effect? This refers particularly to two schemes—the Bakreswar Canal recently completed and the Damodar Canal system which cannot be supported by the facts of the case.

Mr. PRESIDENT: The point is whether the Rai Bahadur can show that the Hon'ble Member said anything in any other part of his speech which is contradictory to the statement just read out. If he cannot, he had better give up that point.

The Hon'ble Khwaja Sir NAZIMUDDIN: That also is my submission.

Rai Bahadur SATISH CHANDRA MUKHERJI: That is my impression, Sir, and I merely gave expression to that.

Mr. PRESIDENT: As you are not quite sure, you had better drop that point.

Rai Bahadur SATISH CHANDRA MUKHERJI: All right, Sir, but the point which I want to emphasise is that in the original Bill itself there was no provision that this Bill at least shall affect these three projects which were in existence from before the introduction of the Bill. So it may be very pertinently asked that if it was not so what was the necessity for inserting clause 5 (B) into the Bill? The very fact that clause 5 (B) was for the first time introduced in the Bill by the Select Committee, I submit, makes it obligatory on the Government so that the people of the division most vitally interested—viz., the people of the Burdwan Division—might have an opportunity of considering the matter. There were two other Acts in force when these three projects were taken in hand, namely, the Drainage Act and the Embankment Act. If these Acts were not sufficient for the purpose of recouping the coffers of Government, then where was the necessity of introducing this provision, namely, section 5 (B)? At least the people of the districts affected never thought that there would be any compulsion in respect of these schemes, and public opinion would have been quite different if it had anticipated that there would be compulsory levy on account of these things.

A further question to which Mr. Bannerjee has already given expression in this House is whether there had been sufficient enquiry and investigation and whether there was sufficient water in these three canals in order to justify the levy being compulsory. People living in the Burdwan Division are perfectly aware that there is no water available in the Eden Canal. In the summer, when drinking water is an urgent need, people rarely get the water and they are always told that there is no water. Further, the amount that is sought to be imposed by this improvement levy upon the people will undoubtedly be many times more than what they have been paying hitherto. So I submit that for this and other reasons the people of the Burdwan Division who will be most vitally affected by the introduction of clause 5 (B) have a right to say their say in this matter.

There is one other thing which the Select Committee do not seem to have considered, and that is that, this levy is compulsory on one

side only, namely, on the side of the tenants, but there is no compulsion on the side of the Government to see that there shall be sufficient and continuous supply of water and the provisions in the Bill are not sufficient at least for the purpose of including the levy and omitting it according as it produces the desired effect or has ceased to produce the desired effect. There are other provisions which have been introduced in the Bill for the first time by the Select Committee and require further reconsideration. For instance, the collection of the levy and exemption from it has been left to the executive officers of Government, which is a very dangerous thing. Then there is another very important thing which should have been further investigated by the Select Committee, and that is, whether the levy should take the form of payment in cash or kind, and the people concerned should be consulted in the matter. In the case of the tenants under the Bengal Tenancy Act the Legislature have abolished the provision for payment in cash and, accordingly, the question of deciding the amount of crop a cultivator has grown and half of the quantity, etc., has given rise to perpetual disputes; so I think that it would be very wise if in the interest of peace and prosperity of the country the tenants who are not unwilling to pay should be told that instead of paying half of their produce they will simply have to pay a certain amount per acre, which will obviate all future disputes and other things. There is another matter to which I wish to draw attention. In the sister Acts, namely, the Drainage and the Embankment Acts, the jurisdiction of the Civil Courts has not been taken away in respect of similar matters, and it is not known why in the present Bill the jurisdiction of the Civil Courts has been sought to be taken away. There was no necessity to do so, and this very fact is sufficient to make the people think that they would not get that support from the Civil Courts which they are expected to get. There is another feature in the provisions of the Bill which requires further investigation and to which the people of the country at various meetings have given expression, and I therefore submit that it is necessary in the interest of the country that this Bill which is expected to do so much to develop the country shall come into existence with the co-operation of the people and not go against the interests of the people.

Maulvi RAJIB UDDIN TARAFDER spoke in Bengali in support of the motion for recommittal, the following being an English translation of his speech:—

I highly protest against the Land Development Bill as introduced by the Hon'ble Member, Sir Khwaja Nazimuddin, in the Council being passed into an Act: because the Bill as originally prepared though it contained many objectionable grounds, yet on the whole it might not have been entirely unacceptable to most of the members. But the Select Committee appointed by the Government for the Bill made such innumerable changes in the original Bill that I cannot at all consider now

that the Bill in its present form if passed into an Act will not do anything but positive harm to the peasantry of the province. Economic depressions, drought, famine and various epidemics are working hard on the one hand, bringing destruction to the poor and helpless peasantry of Bengal; now if on the other hand in the name of land improvement another permanent tax of the nature proposed is thrust on them at the present time, it will but add to their sufferings manifold and help to complete their destruction in a short time. If I accept for arguments' sake and if the Hon'ble Member try to urge for force that the Bill when it actually passes into an Act after passing through as many as 700 proposed amendments will become acceptable to some extent; but I regret to say an undesirable truth here—an Act of this nature should not at all be passed through this present Council which has for many years past done innumerable harm to the country and which has gone as far as to impose a tax on tobacco, the most favourite and innocent enjoyment of the poor peasantry. We cannot but shudder at the very idea of the Primary Education Act passed recently by this very Council. It is only helping to add to the ill-reputation of the Government by putting out such Acts after Acts which are but exploiting the helpless peasants and thus increasing their miseries a thousand times.

By the bye, I take the opportunity of reminding my friend Councillors and colleagues that the innumerable legislation immensely harmful to the peasantry of the province which they have passed from this Council during this long period should be regarded as sufficient. No further should they proceed if they have the interest of their electorates uppermost in their mind and if they want to be returned to the next Reformed Council. In this connection I would request the Government also not to rush through this Bill in such a bad hurry. Reforms are coming very soon when in this Council will be returned many a real representative of the people of the country. If any legislation on improving land is at all necessary, it may very well defer till that reformed and more representative Council. I therefore strongly protest against the Bill being passed in the present Council.

Mr. NARENDRA KUMAR BASU: Sir, I am one of the members of the much maligned Select Committee. I have heard very unkind remarks regarding the working of the Select Committee from some of the members of the House to-night including the charge of flirtation at this age. I must say that I do not yield to anyone in this House, not even to the Hon'ble Member in charge of the Bill or to the supposed author of the Bill, the Rural Development Commissioner; I say I do not yield to any of them in my liking of the principles of the Bill, but as I pointed out at the stage when the Bill was introduced in this Council, the details of the Bill require not only the deepest consideration but also consideration after consulting public opinion

on the matter. It is no use saying that no public either in Bengal or in any other country would ever give an opinion in favour of taxing itself. I do think and I still hold that for a purpose of this kind if public opinion were properly educated, they would gladly subscribe to the principle of the Bill and make a levy upon themselves. I still hold that though the Bengal peasant may be illiterate, his knowledge of what is to his real interest is second to none, not even to the members of this House or the members of the Government Benches. I did make it abundantly clear at the time when the Bill was introduced that in my opinion the Bill ought to have been sent out for public opinion. But the House in its wisdom thought it otherwise and referred it to the Select Committee, and the Select Committee when it met had the advice of the Government departments, but practically no advice from the public. I found a few minutes ago that two Hon'ble Members from the Government Benches pounced upon my friend Mr. Satish Chandra Mukherji when he said that his impression was that the Hon'ble Member in his speech had said that the Bill would not be retrospective. Technically and literally Mr. Mukherji was wrong. There was no doubt about it that in the Statement of Objects and Reasons there was a statement about the Damodar and the Bakreswar Canals. Also in line 38 at page 88 of the Printed Proceedings of the 7th March, 1935, the Hon'ble Member said; "Therefore, if this Bill becomes law, it will probably be necessary to apply it to the Bakreswar Canal and Damodar Canal area." But, Sir, at the next page before finishing his speech the Hon'ble Member said: "Sir, I would like to remind the members of this House that by the time this Bill is enforced and the various schemes mentioned in the pamphlet are carried out, there will be provincial autonomy in Bengal and the control of the Legislature over the responsible Ministers will be sufficient safeguard against injustice or abuse of the executive authority." What does that mean? Finally, in his final reply when the Hon'ble Member was twitting me for my speech he said that "if Mr. Narendra Kumar Basu will only look a little beyond his nose, he will understand that every one of these schemes will have to be financed, and the Member will have to come with a demand for it and every scheme will have to be discussed before the Legislature before it can be passed and sanctioned." I may have a very short and oblique nose, while my learned friend may have a straight and a long nose, but if he now looks beyond his nose he will find that the statement that he made at the time of the introduction of the Bill is directly contradictory to what he is now saying, and he will also find that the provision of consulting the Legislature before a scheme is entered into is not in the Bill as amended by the Select Committee. However, that is neither here nor there so far as this proposal for a recommittal is concerned, but I do submit that the amendments to which the Hon'ble Member has given his assent and taken under his protecting wings are wide, and the question whether they are to the interest of the people in general or to only one section of the people

is a question that requires very much looking into. I submit that some of the proposals accepted by the Hon'ble Member may be acceptable to me or to some other individual member of the House, but whether these amendments are for the general good of the country or not has got to be ascertained. I do admit as a member of the Select Committee that the Select Committee, as I have said, had to frame their proposals without the advice of the people outside. If the Bill is recommited, I take it that the Select Committee will have the power to invite public opinion on the matter and it is only after inviting public opinion and responding to it that a Bill of this description ought to be——

Mr. PRESIDENT: They can invite public opinion on their own initiative. Can't they? No power is necessary.

Mr. NARENDRA KUMAR BASU: I do not think that any power is necessary, but having regard to the time that was before us, it could not be done in the last Select Committee, but I would remind you of the one very significant sentence in the Report in which they said that the Bill had been so changed that it required republication. That meant that the Select Committe wanted that the Bill should be republished for inviting public opinion It has been republished in the *Calcutta Gazette*, but as a matter of fact very little time has been given to the public to make its voice felt, and whatever little time has elapsed since the Bill was published, all the reports that have come up from the countryside by means of newspaper reports and articles as also letters to the Secretary to the Council and the members of the Council show that there seems to be a great deal of opposition to the details of the Bill, and I doubt not that after the announcement of the Hon'ble Member in the earlier part of to-day's sitting the objections to the Bill will be even more voluminous. With these words I suport the motion for recommittal.

Khan Bahadur MUHAMMAD ABDUL MOMIN: The reason why I wish to intervene at this stage of the discussion on this point is not to add any more arguments, if at all more arguments were needed in support of the recommittal of the Bill, but I rise to make an appeal to the Hon'ble Member in charge of the Bill. When the Bill first came out from the Select Committee our feelings were to oppose the Bill tooth and nail, because we consider the Bill unacceptable in principle and as far as I could see unworkable in practice. Since then there have been many conversations and discussions about some of the most objectionable features of the Bill, and I am grateful to the Hon'ble Member that he has been able to remove at least some of them. One of these was the absence of a provision in the Bill to the effect that in future every scheme of improvement should have the

assent of the Council before it was taken up by the executive. That point he has conceded, and this has taken away a lot of objections to the Bill as it came out of the Select Committee, but the most important objection about which perhaps there is unanimity of opinion is about the levy being permanent in its nature. That objection the Hon'ble Member has partially conceded so far as the Damodar and the Bakreswar Canals are concerned, but he has not gone far enough. By this time from the speeches that he has heard in the Council to-day I am sure that he has been convinced that opinion is almost unanimous that the provision of the Bill which makes the levy permanent for ever is objectionable. In the case of the Damodar Canal it has been decided that when once the capital cost has been recovered, the levy will cease. There is no ground therefore why the same principle should not apply not only to all schemes of the future but particularly to those schemes of improvement which already exist, for instance, the Magrahat scheme and similar other schemes which already exist in the province. I make this suggestion before we decide this question of recommitting the Bill to the Select Committee. May I request my friend the Hon'ble Member in charge to reconsider this point in the light of the observations which he has heard here this evening. I am told that for the next two days the Council will not be sitting and that it will meet on Monday. The Report of the Select Committee is before us, and if the Hon'ble Member will call an informal meeting of the members of the Select Committee and go into the matter and try to find out a solution of some of the objections that have been raised, I submit that in the long run his work will be made easier and most of the amendments will be withdrawn. The passage of the Bill through this Council will be very smooth. What, however, is wanted particularly is that the levy to be imposed under this Bill should be framed in the same spirit as has been done in regard to the Damodar Canal. There is absolutely no reason why there should be any differentiation only in regard to the Damodar Canal and not in regard to the Magrahat and other schemes, which are to be initiated under this measure. I make this suggestion to the Hon'ble Member in charge, and on his reply will depend what action we shall take with regard to these particular provisions of the Bill.

Mr. S. M. BOSE: Sir, I agree with most of what Mr. Jitendralal Bannerjee has said about the Bill. There are a great many objectionable features in the Bill, as is shown by the fact that there are no less than 779 amendments. Sir, the Bill as introduced is quite different from the Bill before us and the Bill that is going to be framed, according to the statement of the Hon'ble Member, will, I suspect, be quite a different one again. As I have said, there are very many objectionable features in the Bill before us. The first is the definition of "improvement work," which makes it retrospective by clause 3. Then, again,

there is a thoroughly objectionable clause, viz., clause 5(B). I have had occasion to deal with statutes almost all my life, and up till now I have not come across any statute which makes a levy retrospective. For the first time, so far as I am aware, clause 5(B) seeks to do that.

Then, Sir, the third objectionable feature is the permanent levy. The levy is to go on for ever and ever, even where the cost is recouped a hundred times or over. I should not have objected it there had been a separate fund earmarked for development, to which all these levies could be credited.

Then, Sir, there is another objectionable feature. So far as I can make out, the demand for levy will go on even where the Hon'ble Member is not able to supply the requisite water. I may be wrong, but so far as I can make out that seems to be the effect of the Bill as it stands. No matter whether water is available or not, you must pay—you have got to pay. I quite agree, however, that the principle of compulsion should be introduced; but at the same time I submit that water should be available. As Mr. N. K. Basu has said, public opinion has not been consulted and perhaps that may be the underlying cause of the objectionable features. But, now, at long last, the Hon'ble Member has said that he is going to make certain very important changes to give effect to the strong expression of public opinion. I welcome that announcement, and I am glad to find that at last public opinion is going to be heard. Certain very important changes have been announced to-day, and if they be carried out, I have no doubt that many, if not most, of the fundamental objections to the Bill will be removed. So it comes to this. My friends want recommittal of the Bill, but I do not see eye to eye with that proposal. We are in possession—in seisin—of the Bill with the 700 and odd amendments. What is there to prevent us in our wisdom, from accepting or rejecting such amendments as we think fit? What is the use of sending the Bill back to the Select Committee? Are the members of the Select Committe wiser than ourselves —I mean the whole House? I do not think so. One must surely admit that the whole House has far greater wisdom than that possessed by the Select Committee. So, I do not see what good will be served by sending the Bill back to the Select Committee. The objections that have been mentioned in these amendmnts can be discussed here and passed. I, therefore, see that no possible good can be done by recommitting this Bill to the Select Committee.

Mr. H. S. SUHRAWARDY: Sir, may I just develop the last argument of my friend, Mr. S. M. Bose? If the House considers the Bill instead of recommitting it to Select Committee, it is possible that we shall have the advantage of the very valuable advice of Khan Bahadur Momin of which the Select Committee was deprived. (KHAN BAHADUR MUHAMMAD ABDUL MOMIN: I was there.) If the House, as I was saying, Sir, considers the Bill here on the floor of the House instead of

recommitting it to Select Committee, we shall have the benefit of his wisdom; whereas, if it is recommitted to Select Committee, it is possible that we shall not have the advantage of his presence. (Khan Bahadur Muhammad Abdul Momin: Why?) I am merely speaking from past experience. This Bill is likely to be destroyed between the cloying kindness of Mr. N. K. Basu, Mr. J. L. Bannerjee and Dr. Sen Gupta on the one hand and the uncompromising hostility of Maulvi Nausher Ali. I really fail to understand that even after the most emphatic statement of the members whom I have mentioned first that they are entirely in agreement with the principles of the Bill, why they should want more time to make up their minds with regard to the details. If they have not made up their minds with regard to the details, they can discuss them on the floor of the House, and give the entire House an opportunity of benefiting by their perplexities. With regard to the points which have been conceded by the Hon'ble Member, I may say that their discussion did create a certain amount of heat and acerbity in the Select Committee itself, and if the Hon'ble Member after consulting opinion has now come to a decision which is at variance with the majority decision of the Select Committee, I think there is no reason why the Select Committee as a whole should not accept his opinion and why it is necessary that the Bill should be recommitted to the Select Committee.

Sir, Mr. J. L. Bannerjee has stated that the Hon'ble Member is flouting the opinion of the Select Committee; and therefore in order that the Select Committee may not be aggrieved or may not consider itself insulted the matter ought to be recommitted, so that they may come to the same decision if they so choose. There is absolutely no reason why the Members of the Select Committee cannot make up their minds on the floor of this House and why they should be given an opportunity of reconsidering their decision either here or in Darjeeling. Certainly, Sir, if the motion for recommittal to Select Committee be carried, it is possible that with certain changes in the personnel the new committee will change the main features of the Bill to such an extent that its members will, on the floor of the House, vote for its recommittal and thus we may play about with this Bill till we come to the new Reformed Council. I will not question the representative character of this House or of any future Council or of the possibility of work that may be done in future Councils; but I would certainly consider that any Bill which is likely to be misunderstood by the people of Bengal and misinterpreted by their representatives has a better chance of being passed by this Council than by any other future Council in which the members will always look for the approval of the masses, and will not dare to take a bold step and do good to the people as a whole if they fear that they are likely to be misunderstood. What I am urging is that everybody can well realise that this levy on unearned increment is not taxation at all. Mr. J. L. Bannerjee

who has a very clear and logical mind has admitted that it is not a measure of taxation and he has disagreed with Maulvi Syed Nausher Ali. There are other members of the House who certainly realise that this levy cannot in any way be considered a measure of taxation. Nevertheless, we have such experienced members as Maulvi Nausher Ali—I will not insult the intelligence of Khan Bahadur Momin although he is inviting me to do so—who characterise it to be a measure of taxation. Maulvi Abul Quasem in his enthusiasm considers it to be so: Maulvi Rajib Uddin Tarafder who represents the agriculturists considers it to be so. Therefore, where is the guarantee that the representatives of the masses who will come to the future Council will not misunderstand this levy on unearned increment as a measure of taxation.

A question has been raised by Khan Bahadur Momin as to why this levy should be permanent and why it should not be stopped as soon as Government has recouped its capital expenditure. In the first place, one reason for not providing for the future at this stage is that the good that will be done by these canals will as sure as ever be certainly declining year by year and the levy will consequently decrease. Secondly, some money will have to be raised in order to meet the recurring cost of these schemes which the Khan Bahadur seems to forget. Thirdly, it should not be forgotten that if both the cultivator and the landlord get the benefit of increased production, is there anything in the logic as to why they should not pay for all the advantages which they get without any effort on their part, and if that money comes to the provincial revenues and can be spent on the people again, as we hope it will be spent? I absolutely fail to understand why the Khan Bahadur raises any objection to it. Fourthly, we need not get into a temper as to the conditions sixty years hence; for if the advantages are not commensurate with the levy the future Council will see to it that it is abolished. Personally, I think that if these schemes can confer permanent benefits upon the people, there is absolutely no reason why the people should not pay permanently for them, as long as they derive benefits from them.

The Hon'ble Khwaja Sir NAZIMUDDIN: After the speech of Mr. S. M. Bose and Mr. Suhrawardy I think a great deal of what I was going to say has already been said. But I would like first of all to make clear the grounds why there is no justification whatsoever for recommittal of this Bill. To begin with, as I have said in my first speech, there has been no change of substance made by the Select Committee. It is true that there has been a large number of amendments and modifications but they are all as regards details. Practically on no question of principle has there been any change except the question of a levy on *salami*. Barring that, the Select Committee made no radical change in the Bill.

As regards the amendment which Government intend to make in view of the opinion expressed by the members in discussions and from what we can gather from the trend of amendments here again it is extremely awkward that if Government try to meet the wishes of the house they would be condemned for that. If, on the other hand, they do not meet the wishes of the House, they are equally condemned. It is, one would be tempted to say, that Government is between the devil and the deep sea. But in any case as far as the point raised by Mr. Banerji is concerned, I would like to draw the attention of the House to the fact that the Bill was referred to the Select Committee for detailed consideration and criticism. This has been done and what is more every member of the Select Committee will testify that during the nine or ten days that they were at Darjeeling they had to work very hard and every care and attention was given to all provisions of the Bill. Now after this careful consideration the members of this House have given notice of about 700 amendments. (A VOICE: 800.) This again is nothing new, and in another big Bill there have been notices of amendments after the Select Committee's consideration, and I remember that in the Primary Education Bill there were as many as 1,500 amendments, and I believe in the Local Self-Government Bill or the Bengal Municipal Bill there were over 2,000 amendments. Therefore, the mere fact that a large number of amendments have been proposed, or that Government have accepted some of the recommendations or amendments that have been proposed or have come to an arrangement, is nothing new and has not in the past necessitated the committal of the Bill to the Select Committee again. Therefore, I see no reason why on this occasion it will not be possible for the House to take the clauses one by one and consider and come to a decision on them. After all the procedure of the House of Commons is something very similar. In the House of Commons the Bill is sent to a committee of the whole House and our procedure here of taking it clause by clause is very similar to that. (A VOICE: Not at all.) Quite true. I say not exactly the same but something very similar. In committee the members can speak more than once. When we take clauses one by one or even more than one you cannot speak more than once. (A VOICE: But we do.) Therefore, I do not think that there is any valid reason why this Bill should be recommitted. After all, recommittal means that it cannot be taken up till next Session and there is nothing to prevent members again suggesting further recommittal. May I remind the House that the Bill has been thoroughly considered by the members and all the amendments proposed have nothing new in them? The question is that some of the members are not prepared to accept that.

Now I would like to say a few words on the points raised by the various speakers and I specially like to draw attention of the House to one fact which has been made by Mr. Suhrawardy. But I would like

to emphasise, and even more so what is the difference that exists between a levy as proposed in the Bill and any taxation measure. Maulvi Nausher Ali wanted to know whether there was any logic in what I said. I would ask him what is the logic in the statement that he has made to-day that Government is financially bankrupt and want to find out new avenues for taxation. They refused to accept the suggestion made by Mr. Banerji in the question put forward whether Government are prepared to reduce a levy after 60 years or 30 years when their capital charges have been paid. May I draw attention of the House that if Government wanted to relieve the financial distress how are members to derive some financial benefit 30 or 60 years hence? That is Maulvi Nausher Ali's logic and that is the suggestion of Mr. J. L. Bannerjee. Then may I say that Maulvi Nausher Ali again tried to rouse the passion of this House by pointing out what distress and hardship will be caused to the poor cultivators of Bengal if this taxation is levied? Not only Mr. Nausher Ali but many other members spoke on this subject. (A VOICE: But they are acquainted with facts.) I made this point clear when I spoke previously on this Bill in the last Session. May I again inform the House what the actual proposition is? The proposition is that at the present moment if your income is Rs. 10 and not in a position to pay your rent and to meet the necessities of life, we are going to charge from you Rs. 10 or Rs. 5 or Rs. 4. Whatever may be the levy but on condition only when I have put in your pocket at least Rs. 20 so that there is a difference between the money which you previously earned and there is a difference between the money which you are going to earn and we are going to take half of the extra money which is going to your pocket. (A VOICE: Who is going to decide the profit?) That is a different question. May I ask the House to kindly consider this for one minute clearly and dispassionately? There is one question whether what you have provided in the Bill can be given effect to or not, and whether it will cause hardship or not. The point is that it does not matter how you approach it. If you go to a person and ask to spend Rs. 50 on a business scheme so that he will get a return of Rs. 100, you will find that he will be glad to do so. I ask you whether it is a hardship if you spend Rs. 50 and get Rs. 100 in return. Having replied to all members in opposition, let me take up the question whether it is possible to give effect to the Bill or not. The question that remains is whether it is possible to give effect to it, and I maintain that members of this House cannot take up an attitude that a law so enacted will not be duly enforced. That is a fundamental principle. If you come to the Legislative Council you believe in the fact that if you pass a law it will be enforced.

Maulvi ABUL QUASEM: What about the Primary Education Act?

The Hon'ble Khwaja Sir NAZIMUDDIN: I will deal with the Primary Education Act later. Let us take this point. It is possible

that under the present system of Government you have an irremovable responsible executive and they are not responsible for the action of their officers. But I would like this House to remember in a question of such great importance repetition of this kind cannot be made too often because you are going to have responsible Government and your Ministers are going to be responsible to the Legislature, and it is immaterial what the action of the executive may be. The Ministers will have to answer and not the executive officers of Government. Ministers will have to justify every action of their executive officer in the district or anywhere else. Therefore, if there is any irregularity, if there is *zoolum*, if there is any injustice and if there is an outcry against it, the future Minister will be bound to see it rectified. Therefore, it is not possible in future that injustice will be perpetuated or this Act will not be enforced in the manner in which it is intended to be enforced. This I consider a most important point. In future you are going to have provincial autonomy and Ministers will be responsible to the Legislature. If you deny this, you are denying the existence of the democratic system of Government and that is an absolute denial of actual fact. Therefore, I maintain that this measure is not going to create any hardship so far as the poor cultivators are concerned. I yield to none in this House as regards the welfare of the cultivators, and I am convinced that so far as the proposal in the Bill is concerned, for the realisation of the levy not a single man will be unduly burdened or unduly harassed or unduly made to pay money. As I have said before, the difference between a tax and the levy proposed in the Bill lies in this that you have to pay a tax or rent, whether you make a profit or loss, whether your income increases or decreases you have to pay that money continually and permanently.

Dr. NARESH CHANDRA SEN GUPTA: May I know where the Hon'ble Member got this definition of a tax from? I do not know of any authority laying down such a definition—income-tax for instance.

The Hon'ble Khwaja Sir NAZIMUDDIN: Income-tax is an exception. As a rule all rents and taxes you have got to pay whether you make a profit or not. But in the case of this levy it will only be paid when a man who is paying the levy is in a better position than he was previously and when he has made some profit; when his income has increased, then and then only should he pay. Supposing for any reason there is no increased yield of crop, supposing that for any reason he has not received sufficient water for his purpose, in that case remission will be granted and therefore he will not be made to pay, whereas in the case of rent and tax he has got to pay. In this connection I may reply to Mr. J. L. Bannerjee that so far as the Bakreswar Canal is

concerned, he will be far better off if this Bill is passed than he is at present. At the present time the people who contract to take water have got to pay their rate when the water is supplied. Under this Bill Government have to be satisfied that the man has got an increased return and on that increased return only he will have to pay. Supposing there is an insufficient supply of water—as Mr. J. L. Bannerjee has been complaining it is—if this Bill had been in force he would not have to pay any levy whatsoever.

Babu JITENDRALAL BANNERJEE: Will the remissions be annual differing from year to year?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, remissions will be annual. Therefore, what I say holds good. If in any area there is no yield owing to any fault——

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. Are these provisions in the Bill as it stands? A few minutes ago one of the members from the Government Benches pointed out that someone from this side of the House was misleading the House.

Mr. PRESIDENT: That is not a point of order.

Mr. SHANTI SHEKHARESWAR RAY: But Mr. Townend raised this point as a point of order.

Mr. PRESIDENT: That has already been disposed of.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am surprised at the hon'ble member making this interruption. One of the fundamental principles of the Bill is that there shall not be any levy unless there is a profit made. That is the fundamental principle of this Bill, and I am surprised to see members again and again getting up and questioning and criticising the measure without realising this one fundamental fact—that no man will be called upon to pay unless his income has increased, unless he has made money.

Babu JITENDRALAL BANNERJEE: Is the Hon'ble Member not misrepresenting the provisions of the Bill since in the Bill it is said that "unless he is expected to make a profit"? No question of actual profit arises. Assessment is on a five years' basis.

The Hon'ble Khwaja Sir NAZIMUDDIN: Assessment will be made on a five years' basis, but remissions will be given on an yearly basis. You cannot allow people to postpone their payment till the petitions for remission are decided. Supposing we have got 500, or 2,000, or 5,000 or in large areas 10,000 applications, it will take a year or two to dispose of them. If people do not pay in time, they will have to pay two years' levy in one year. That is absolutely unsound and unsafe. After assessment is made, people will have to pay, but by means of applications they may get remissions annually. Therefore, I want to appeal to this House and through this House to the people at large that they should not go away with the idea that this Bill is a taxation measure and that it is going to create hardship on the tenants or on the poor people. That is the point above all other things that I ask the people at large to remember. On no account whatsoever can this Bill be considered to cause hardship to the poor people whose economic condition is bad. The object of the Bill is merely to increase the income of the people, to improve their economic condition, to improve their purchasing power. Therefore, it is gross misrepresentation of fact to say [Here the Hon'ble Member reached his time-limit but was allowed to go on] that this Bill will create hardship on any person whatsoever. It is very interesting to find that whenever there is a thrust against Mr. Narendra Kumar Basu it goes home; he remembers it and makes painful attempts to reply to it.

I want to make two points absolutely clear. One is that Khan Bahadur Momin in his speech suggested that I have agreed to the complete stoppage of the levy after the capital and interest charges have been paid on the Damodar Canal. I never intended that. I only said that the rate was going to be reduced so far as supervision and maintenance expenditure was concerned. As regards the other claims, Government are prepared to consider moving an amendment on the following lines: This is not a draft of the Legislative Department, but it is just to give an idea to the House what we propose to do if the motion for recommittal is defeated. When the capital charges and others have been paid off, the levy should be reduced to a rate with the approval of the Legislative Council. Something on these lines the Legislative Department will be asked to draft.

Babu JITENDRALAL BANNERJEE: What about the Damodar?

The Hon'ble Khwaja Sir NAZIMUDDIN: Damodar will be treated separately.

With these words I appeal to the House to consider that this Bill is of vital importance to the people of decadent areas, and in view of its great importance, I hope the members of the House will not support the motion for recommittal.

The question that the Bengal Development Bill, 1935, be recommitted, being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Subah, Maulvi Syed Majid.
Bal, Rai Bahadur Sarat Chandra.
Banerji, Mr. P.
Banerjee, Babu Jitendralal.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Chokhany, Rai Bahadur Ram Dev.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nurul Absar.
Fazulji, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Mohammed.
Guha, Babu Profulla Kumar.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Mitra, Babu Sarat Chandra.
Momin, Khan Bahadur Mohammad Abdul.
Mukherji, Rai Bahadur Satish Chandra.
Mukhopadhaya, Rai Sahib Surat Chandra.
Nag, Babu Sob Lal.
Poddar, Mr. Ananda Mohan.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Raikat, Mr. Prasanna Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Nocoul.
Sahana, Rai Bahadur Satya Kinkar.
Samad, Maulvi Abdus.
Sen, Rai Bahadur Akshoy Kumar.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sircar, Dr. Sir Nilratan.
Tarafder, Maulvi Rajib Uddin.

NOES.

Ahsan, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Arthur, Mr. G. G.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Barma, Babu Premhari.
Barma, Rai Sahib Panchanan.
Basu, Babu Jatindra Nath.
Basu, Mr. S.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafizar Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Cooper, Mr. G. G.
Dutt, Rai Bahadur Dr. Haridhan.
Faroqui, the Hon'ble Nawab K. G. M., of Ratanpur.
Ghatwal, Mr. R. N.
Gladding, Mr. D.
Guha, Mr. P. N.
Gulbria, Mr. F. G.
Haldar, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Nawab Musharruf, Khan Bahadur.
Hussain, Maulvi Latafat.
Kasem, Maulvi Abul.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Nazar Rahman.
Lamb, Mr. T.
Lesson, Mr. G. W.
Lockart, Mr. A. R. G.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mullick, Mr. Mohunda Behary.
Nag, Rev. R. A.
Nandy, Maharaja Srin Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahman, Mr. A. F.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J. D.
Rotherfurd, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satkowri Singh.
Roy, Mr. Sarat Kumar.
Roy Chowdhuri, Babu Hem Chandra.
Sadequllah, Maulvi Muhammad.
Sachse, Mr. F. A.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, Nashipur.
Solaiman, Maulvi Muhammad.
Steven, Mr. J. W. R.
Stevens, Mr. H. G. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. J. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 39 and the Noes 66, the motion was lost.

The amendment of Mr. Shanti Shekhareswar Ray that the Bill be recommitted with respect to clauses 1, 2, 3, 5B, 6, 8, 8A, 12, 31B and 32 was then put and lost.

The following amendment of Dr. Naresh Chandra Sen Gupta that the Bill be recommitted to the Select Committee with instructions—

(1) to incorporate therein suitable provisions for the framing and publication of improvement schemes on the basis of which the improvement levy is to be made, after full consultation with the people likely to be affected thereby,

(2) to provide that no action shall be taken under this Bill for declaring a notified area or assessing an improvement levy until the full details of the scheme of improvement have been made available to the public and the people affected,

(3) to make suitable provision for an expert and independent tribunal to decide on all questions affecting the valuation of improvements, assessment of the levy and compensation for injury or injurious affection after suitable enquiries made on the spot, and to provide that the adjudication by such tribunal shall have the force and effect of a decree under the Civil Procedure Code,

(4) embodying in the Bill provisions determining the principles on which exemption or remission of improvement levy may be granted.

was then put and lost.

The question that the Bengal Development Bill, 1935, as reported by the Select Committee, be taken into consideration was put and agreed to.

Mr. PRESIDENT: His Excellency the Governor has been pleased to modify his previous orders regarding the sitting of this Council and under his present order there will be no meeting of the Bengal Legislative Council after the 31st July, 1935, till 3 p.m. on the 5th August. The Council therefore stands adjourned till that time.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 5th August, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 5th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 103 nominated and elected members.

Obituary References.

Mr. PRESIDENT: Gentlemen, since I last referred to the deaths of certain past members of the Council intelligence has been received of the death of another past member of this Council. Babu Jogendra Nath Mitter who was a member of this Council from 1924 to 1926 from the Jessore South (Non-Muhammadan) Constituency is no more.

The last Mr. Mitter, one of the foremost public men of Jessore, was a self-made man. He created an extensive practice at the Jessore bar and was the President of the local Bar Association. For about seventeen years he was first the Vice-Chairman and afterwards Chairman of the Jessore Municipality. He was one of those who founded the Jessore National School and the Jessore Loan Office and with this latter institution he was connected throughout his life. His death is a loss to his native district.

I feel that the sympathy of the Council should be communicated to his bereaved family.

I would ask you, gentlemen, to signify your approval by kindly rising in your places.

(Pause.)

Mr. PRESIDENT: Thank you, gentlemen. Secretary will take the necessary steps.

STARRED QUESTIONS

(to which oral answers were given)

Travelling allowances to defence witnesses in sessions trials.

*9. **Rai Bahadur AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that under the Government circulars defence witnesses in sessions trials are not entitled to get their travelling allowances, etc., if the defence does not choose to examine them in sessions court; and

(*ii*) that such procedure has been causing great hardship to the persons cited as defence witnesses?

(*b*) Are the Government considering the desirability of revising the circular orders and rules concerning the travelling allowance of defence witnesses in sessions trials?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) (*i*) Yes, unless the Judge considers that if they had been examined, they would have been in a position to give relevant and material evidence or that there are special circumstances to justify the payment of their expenses.

(*ii*) No such general complaint has been received by Government.

(*b*) No.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether defence witnesses are bound to appear on receipt of summons of a Court; and if so, whether they should be penalised for not giving evidence, and that for no fault of their own?

The Hon'ble Sir BROJENDRA LAL MITTER: Under the law, they are bound to appear. I may, however, add, Sir, that the figures we have got show that a very large percentage of defence witnesses are summoned, but they are never examined. They are deliberately kept out of the courts, and it is in such cases that the Judge has got the discretion of disallowing the expenses.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether it is not proper that the Judge should, before issuing the summons, enquire as to whether the witnesses who are to be summoned are likely to give material evidence in the case, and then to refuse to issue summons in cases where he thinks it is not necessary?

The Hon'ble Sir BROJENDRA LAL MITTER: Sir, I should submit that the parties ought to have some sense of responsibility as to whom they should summon, and whom they should not.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state how it would be possible for a Judge to consider that a particular defence witness would have been in a position to give relevant and material evidence unless he was actually examined beforehand?

The Hon'ble Sir BROJENDRA LAL MITTER: If any witness claims to have his expenses paid, he will have to satisfy the Judge as to what evidence he would have given on oath, and if the Judge on hearing his statement, given not on oath, of course, thinks that the man could have given relevant evidence though he had not been called to give evidence, then the Judge should grant his expenses; but if he finds that he had been called unnecessarily, he cannot sanction his expenses. That is the position.

Proposed Agricultural College at Rajshahi.

***10. Rai Bahadur SATYENDRA KUMAR DAS:** Is the Hon'ble Minister in charge of the Education Department considering the desirability of starting women's classes in dairying and cow and poultry keeping in the proposed Agricultural College at Rajshahi?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Azizul Haque): No.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Minister be pleased to state the reasons for his giving a reply of emphatic "No"?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: The hon'ble member is aware that the expenses of this agricultural institute are being met from an endowment fund which is not sufficient to allow us to open separate classes for women.

Life assurance policies of detenus.

***11. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact that the Government pay the premium of life assurance of some of the detenus for a limited period only and then stops the payment on the ground that the policy has acquired its paid-up value?

(*b*) If the answer to (*a*) is in the affirmative, does the Hon'ble Member realise—

(*i*) that the purpose of life assurance becomes void when the policy is discontinued before the stipulated period; and

(*ii*) that had the detenu been a free man he could have continued the policy in most cases?

(*c*) Are the Government considering the desirability of changing their policy in this matter and of continuing to pay the premium so long the detenu is detained under Government order?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Government pay the premia in those cases in which it appears that detention has deprived the detenus of sources of income on which they relied to keep up their premia, and there are no other sources from which they can continue the policies. Premia paid on policies which have been taken out shortly before detention are refunded. In other cases the premia are paid until the policies acquire surrender and part paid-up values.

(*b*) and (*c*) The principle followed is that while Government should take such action as is reasonable to prevent damage that would otherwise occur by non-payment of premia, they are not justified in utilising public revenues to increase the value of the detenu's estate. Government see no reason to change this policy.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to give us an idea of the actual amount of money spent in this direction for the payment of premia?

The Hon'ble Mr. R. N. REID: I am quite unable to give the figure at short notice.

Bengal-Nagpur Railway Advisory Committee.

*12. **Rai Bahadur SATYA KINKAR SAHANA:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether there is an Advisory Committee for the Bengal-Nagpur Railway in Bengal?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the names of the members of the Committee and how many of them are Bengalis?

(*c*) Is the Hon'ble Member aware that the grievances of the passengers and businessmen regarding—

(*1*) irregular running of trains;

(*2*) want of light in the trains and on the platforms; and

(*3*) the prevalence of higher freight in Bengal-Nagpur Railway than in other lines;

are often brought to the notice of the authorities and Members of the Railway Board?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state what steps, if any, have been taken for the removal of those grievances?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) and (*b*) The Advisory Committee for Board consists of—

(*i*) The Agent of the Railway.

(*ii*) The District Magistrate of Midnapore.

(*iii*) A representative of the Bengal Chamber of Commerce—Mr. H. F. Bateman.

(*iv*) A representative of the Calcutta Trades Association Mr. T. J. Read.

(*v*) A representative of the Marwari Chamber of Commerce—Mr. R. N. Gaggar.

(*vi*) A representative of the Moslem Chamber of Commerce—Mr. A. Aziz Khan.

(*vii*) A representative of the Bengal National Chamber of Commerce - Dr. T. C. Law.

(*c*) No complaints of this nature have been received by the Local Government. Government have no information whether complaints have been addressed to the Railway Board and the Railway Administration.

(*d*) Does not arise.

Babu KHETTER MOHAN RAY: Will the Hon'ble Member be pleased to state the reasons why the Bengal Legislative Council is not represented on the Advisory Board of the Bengal Nagpur Railway as in the case of Assam-Bengal and Eastern Bengal Railways?

The Hon'ble Sir JOHN WOODHEAD: The Bengal Nagpur Railway is a Company-managed Railway, and I think the Company decides the personnel in this case.

Rai Bahadur SATYA KINKAR SAHANA: Is the Hon'ble Member aware of the fact that such complaints are generally addressed to the Railway Board and the Railway Administration, and not to the Government?

The Hon'ble Sir JOHN WOODHEAD: I should have thought that the usual channel of communication should be the Railway Board and the Railway Administration.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Member aware of the fact that in the estimation of the general public B. N. R. stands for "Be never regular"?

The Hon'ble Sir JOHN WOODHEAD: That is a question of opinion, Sir.

Rai Bahadur SATYENDRA KUMAR DAS: Is it not a fact that Assam-Bengal Railway is a Company-managed Railway although this Council is represented on its Advisory Committee?

The Hon'ble Sir JOHN WOODHEAD: Yes; I believe, Sir, this Council is represented on the Assam-Bengal Railway Advisory Committee.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the constitution of this Committee is made by the Government or by the Railway concerned?

The Hon'ble Sir JOHN WOODHEAD: I am not certain about the position, Sir. I think I have answered questions like this before, and I assume that it is decided by the Railway concerned, when the Railway is a company-managed one.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to make an enquiry as to whether complaints have been addressed to the Railway Board and to the Railway Administration?

The Hon'ble Sir JOHN WOODHEAD: Sir, it is not a question but a request for action.

Mr. PRESIDENT: But I have permitted such questions before. It is in order.

The Hon'ble Sir JOHN WOODHEAD: There are memebrs on the Committee belonging to the different provinces concerned; and so far as the grievances are concerned, the natural course is for persons having a grievance to suggest to the members of the Committee that he should place the matter before a meeting of the Committee.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Pension scheme for process-servers.

4. **Mr. K. C. RAY CHOWDHURY:** Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) how long the pension scheme for the process-servers is pending with the Government; and

(*ii*) what will be the approximate expenditure in giving effect to the scheme?

The Hon'ble Sir BROJENDRA LAL MITTER: (*i*) The question has been pending since 1929.

(*ii*) No estimate can be given.

Clerks in Bakarganj civil courts.

5. **Maulvi MUHAMMAD HOSSAIN:** Will the Hon'ble Member in charge of Judicial Department be pleased to lay on the table a statement showing, subdivision by subdivision, the number of Hindu and Muhammadan clerks serving at present in the civil courts of the Bakarganj district?

The Hon'ble Sir BROJENDRA LAL MITTER: The statement is laid on the table.

Statement referred to in the reply to unstarred question No. 5.

	Hindus (including the Scheduled Castes).	Muhammadans.
Barisal Sadar	65 + 1 temporary	21 + 3 temporary.
Pirojpur	14	6
Patuakhali	13	10 + 1 temporary.
Bhola	12	5

Process-servers of Bolpur Civil Courts.

6. **Mr. K. C. RAY CHOWDHURY:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that the process-servers of the Bolpur Civil Courts in Birbhum are engaged as night-watchmen up till now?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether his attention has been drawn to the orders contained in the Judicial Department letter No. 3460 of the 17th October, 1902, and the reply to unstarred question No. 18 (*f*) of the 14th March, 1921?

(*c*) What steps, if any, are being taken against the violation of the orders of 1902?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) The information is not correct.

(*b*) and (*c*) Do not arise.

Commutation of pension.

7. **Rai Bahadur SATISH CHANDRA MUKHERJI:** (*a*) Is the Hon'ble Member in charge of the Finance Department aware that commutation money of pensions of applicants who before retirement belonged to Bengal ministerial service is not ordinarily paid before 5 or 6 years elapse from the date of their applications?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the same?

(*c*) Is it a fact that the applications of those who before retirement belonged to the All-India Service receive more favourable treatment and they draw their commutation money soon after their retirement?

(*d*) If the answer to (*c*) is in the affirmative, what is the reason for the differential treatment?

(*e*) Is the Hon'ble Member aware that all other Governments including even Assam are much more prompt in paying commutation money of pensions?

(*f*) Is the Hon'ble Member aware of a feeling of considerable anxiety caused by the inordinate delay in making these payments?

(*g*) Does the Hon'ble Member realise that the object for which commutation is granted is likely to be defeated from the delay that occurs?

(*h*) Are the Government considering the desirability of taking necessary steps to expedite payment?

(*i*) Will the Hon'ble Member be pleased to state the number of applications in the pending list and the date up to which payments have been made?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) Yes.

(*b*) In recent years the funds provided for the purpose have fallen considerably short of the demand represented by the applications received, and financial stringency has made it impossible to provide larger funds.

(*c*) Members of the All-India Services are entitled to commutation of a portion of their pensions on application. Provided the prescribed conditions are satisfied, they receive their commutation money soon after application.

(*d*) Unlike members of the All-India Services, members of the ministerial services are not entitled to commutation as a matter of right. They are, however, allowed to commute subject to budget provision of sufficient funds, on satisfying prescribed conditions.

(*e*) I have no information.

(*f*) Government have received representations to this effect.

(*g*) No.

(*h*) It has been decided to borrow Rs. 10 lakhs from the Provincial Loans Fund this year. A supplementary grant of Rs. 10 lakhs will be asked for in this session of the Legislative Council.

(*i*) On the 22nd July, 1935, the number of pending cases was 1,447, and the last application on which a payment was sanctioned before that date was an application received on the 29th January, 1930.

Rai Bahadur SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state whether the loan of Rs. 10 lakhs will enable the Government to pay up all the obligations up-to-date?

The Hon'ble Sir JOHN WOODHEAD: No, Sir.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(Discussion on the Bengal Development Bill was resumed.)

Clause 1.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 1(*1*), in lines 1 and 2, for the words "Bengal Development Act," the words "Bengal Land Improvement Levy Act" be substituted.

Mr. PRESIDENT: Would you move the next two motions as well, and make one speech?

Maulvi ABUL QUASEM: I beg also to move that in clause 1(*1*), in lines 1 and 2, for the words "Bengal Development Act," the words "Bengal Land Development Levy Act" be substituted.

I beg further to move that in clause 1(*1*), in lines 1 and 2, for the words "Bengal Development Act" the words "Bengal Land Development Act" be substituted.

Sir, with the first of the motions I appear before the bar of the House to plead the cause of a noble word which has rendered a great service in connection with this Bill, but which in my opinion has been most unfairly treated here. Sir, the word "development" has been chosen to give a name to this Bill. I have carefully gone through the several clauses of this Bill, and I have found, Sir, that the word "development" occurs only once in the course of the whole Bill, and that only in the preamble. Sir, I want in my speech to deal with my first motion and although I have suggested two other alternatives, my decided preference is for the name I have suggested in my first speech.

As I have already stated, the word "development" occurs only once, and that in the Preamble. Throughout the whole of the Bill, the word "improvement" has been used. I took the trouble to count the number of occasions on which the word "improvement" has been used in the course of the Bill, and the number I have counted is 72, while the word "development," as I have just said, occurs only once. Sir, the word "improvement" is a noble word which has been made to bear the heat and burden of the day, which has been made to do duty on 72 occasions, but when the occasion came to give a name to the Bill, the word "improvement" was rejected summarily, and the word "development" was adopted. I ask this Council, is it justice, is it fairness, is it equity? It might be said that the word "improvement"

is not a very good word. I would reply that this word has done very well for the city of Calcutta—I am referring, Sir, to the Calcutta Improvement Trust Act. If the word "improvement" could serve the purpose so far as Calcutta's development was concerned, I cannot see why the same word should not find an equally useful field so far as development of land in certain districts is concerned.

Sir, I would like to refer the Council to clause 22 of the Bill. In clause 22, Government proposes to take power to carry out drainage work, and that is the only other matter which enters into this Bill save and except irrigation. Clause 22 says, "Whenever it appears expedient to carry out any scheme of drainage for the betterment of public health or for the improvement of any land ....." In this clause, there was an opportunity for using the word "development" but the draftsman did not use it. The word "improvement" has been used everywhere in order to describe the state of things which would be brought about by carrying out certain schemes of irrigation. If that was so, what right had the word "development" acquired to find a place in the name of the Bill?

Then, Sir, the name of this Bill is "the Bengal Development Bill." The word "development" covers a wide and extensive field. There may be spiritual development. Sir, this particular Bill is designed to bring prosperity to people who are now impoverished. Sages and saints of all countries and professing all religions have declared that prosperity is a hindrance to spiritual development. So we may be sure that we are not concerned here with that sort of development. Then take the case of social and educational development. This Bill has nothing to do with development of that nature. Take the case of economic development; in my humble opinion, this kind of development can be divided into three groups, industrial, commercial and agricultural. Sir, this Bill has nothing to do with commercial and industrial development. This Bill has got something to do with agricultural development, but only with a part of that development. It is concerned with development of lands which have deteriorated on account of the death and decay of some rivers. It covers, therefore, only a small part of the vast field of development, that this Bill seeks to deal with. Why should the word "development" be then used when the Bill does not cover the whole field implied by the use of that word? It is a misnomer. It misleads the people. You have put up a wrong and misleading sign-board over your shop. What particular development the Bill intends to provide for? You are not concerned with any other kind of development other than land improvement. You should, therefore, say explicitly and clearly that it is land improvement alone and no other kind of improvement that the Bill is designed to deal with. That is why I have suggested that the proper name is "land improvement" and not "land development."

Then again, Sir, this Bill does not provide for any improvement in land; that will be dealt with by means of other enactments. Here Government only intends to take power to impose an improvement levy when improvements have actually been brought about by means of certain schemes of irrigation that the Government has in contemplation. Sir, this Bill has nothing to do with giving effect to improvement works. That will be dealt with separately under different Act. This Bill is particularly and primarily meant for the imposition of an improvement levy upon certain people who will be benefited by certain schemes of irrigation that Government will put into effect. If that is the case, Sir, then why should Government fight shy of the word "levy"? I do not know if there is any mysterious connection between capital levy and this improvement levy. The Socialists in England want to have a capital levy, but the people in England, as at present advised, would have nothing to do with it. Sir, our Government by this Bill is seeking only to impose an improvement levy. I do submit, Sir, that the name that I have suggested is logical, scientific and appropriate. It really gives a key-note to the whole Bill. It does not mislead the people. But the name that Government suggests certainly misses the mark. It is misleading; it has got no relation actually to the provisions incorporated in the Bill itself. Therefore, I do suggest that the name "Land Improvement Levy Act" should be accepted, because that really explains correctly the intentions of the Bill. I know, Sir, Government can carry out any measure they like with the help of their faithful ranks who are ready to march into their lobby at their behests. Sir, it is a harmless amendment I have proposed. It only attempts at giving a correct and proper name to the Bill. Many might object, asking, what is there in a name? Sir, great men do not quarrel with names. Not having the least pretensions to greatness, I set great store by a name and I submit that the name that I have suggested gives a key-note to the provisions contained in the Bill. Sir, I might also tell the House that the phrase "improvement levy" occurs 42 times in the body of the Bill. So, Sir, every word in the name I have suggested is to be found in the Bill. I submit therefore that it should be preferred to the name that has been given to the Bill by Government. With these words, Sir, I commend my motions.

Mr. PRESIDENT: I think, Mr. Ray, you should move your amendment at this stage.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 1(*1*), in line 1, after the word "development," the word "tax" be inserted.

Sir, I would have been the last person to have moved an amendment of this nature, but I have been prompted to do so for one reason and that is this. The Hon'ble Member in charge of the Bill has repeatedly

stated that this is not a taxation measure. I want the House to give a straight decision to a straight question. I would ask the House to place before the country this measure in its true light. I want that people should be given an opportunity to realise whether it is a taxation measure or not. The Hon'ble Member in charge of the Bill has made it a grievance as to why there should be so much opposition to this measure. He says that what he proposes to do is not to raise money by taxation, but to put money into the pockets of the people. Sir, it would be very well if, for instance, the Hon'ble Member in charge of the Bill or the Leader of the House had made a gift of, say, his month's salary and deposited that into the accounts of the Leader of the Opposition and then had asked him to refund half that amount. In that case, I can realise that it was more or less a gift of 50 per cent. Here, Sir, it is quite different. If we go through the Bill, as it stands, we find that there is a provision for raising a tax from certain people, from people in the Damodar Canal area where Government has not paid a single pice but claims the right of raising a certain amount of tax. In this case at least, there is no question of making a free gift and taking something back. The Hon'ble Member in charge or the Government is going to spend nothing on this improvement work but still they want to levy a tax from people residing there. If that be so, why does the Government stop after realising their taxes from the Damodar Canal area, and not raise taxes from all the towns and villages alongside a railway line, because by opening up such railway lines in the past, admittedly the Government have raised the valuation of the lands there. Sir, Government's attitude in the matter of raising a tax in the Damodar Canal area appears to be more or less a measure of pure taxation. I realise that hedged in by the safeguards which the Hon'ble Member is prepared to concede, the grievances over this question of taxation might be reduced to a minimum. He says, when there is really a certain amount of profit, Government is going to have a share in that profit, but there too the proposal is not free from objection. The machinery proposed by Government to come to a decision as to whether a particular area has benefited by such schemes of improvement or any particular person has benefited by this improvement work is not what it should be. Well, it is the Government or their own executive officers who are going to decide that. Sir, the Hon'ble Member in charge of the Bill has more or less claimed that it is not a question of taxation but it is a question of partnership and that upon a very favourable term so far as the people are concerned. They are not expected to make any contribution beforehand. They are not to share the losses but it is only when there is a profit they are to pay, but it does not strike the Government how very complicated, how very difficult it is to come to a decision on such points. We do not know what improvement work Government are going to do; throughout the Bill there is no reference to that. It may be that a future Minister may put up a lamp post before a jute mill and claim that to be an improvement and ask the

proprietor of the mill that because there is an improvement, he must pay for it. Perhaps that is an extreme view of the case, but the Bill, as it stands, is bristled with such loopholes, such ill-conceived provisions which are liable to be abused. The Hon'ble Member in charge of the Bill may have brought this with the best of intentions; perhaps the officers of the Government of Bengal may be inspired by very high motives, but when you put certain provisions in the Bill, it is not the intention of the framers of the Bill or the Government in power at the time that has to be taken into account. We must examine the provisions of the Bill very strictly. We should see whether these provisions could be interpreted or misinterpreted in a way that is the intention of the present framers of the Bill. In the absence of definite information on the subject as to what is going to constitute an improvement work, to give so much power into the hands of the executive is suicidal. The only definite thing we get in this Bill is about the Damodar Canal area. There is no make-belief; nothing is left to the future Government to interpret. There it is that that area is going to be definitely taxed, and that is why I suggest that the word "tax" should be used and all this talk of making a free gift should be abandoned. I could well understand if an insurance agent had come and produced a prospectus before the country with such plausible excuses; that could have been understood, because we know there are some financial adventurers in the country who want to pose before the public as great benefactors, who want to raise money from the people on the plea that they are giving something for nothing. I read only the other day in the newspapers that there is a scheme known as the gift-change where one person is invited to pay a certain amount of money and he is assured that the money will flow back very soon 20 times or more. But those are the schemes of swindlers and financial adventurers. The measure brought by a responsible Government, a Government that expects respect from the people should not be of such a speculative or hasty nature.

Maulvi ABDUS SAMAD: Sir, I rise to support the motion of Maulvi Abul Quasem. I agree with him when he says that the Bengal Development Bill is a misnomer. It is really a Bill to provide money by imposing a levy after execution of certain improvements in irrigation. The real and primary object of Government is to levy a tax and not to improve the land: that is only a secondary object and this will appear from the very preamble itself. In the original Bill the preamble was "whereas it is expedient with a view to develop lands in Bengal to impose levy in respect of increased profits resulting from such works &c. &c.", that is, the real object was to impose a levy. The Select Committee have modified it thus: "whereas it is expedient to provide for the development of lands in Bengal and for that purpose to impose a levy in respect of increased profits &c. &c.". This is hardly

an improvement. The original intention of the Bill practically remains unchanged. The imposition of a levy should be a secondary purpose. The primary object is to construct works of irrigation so that the lands may improve and to make some provisions in the Bill to raise money by means of toll, etc., so as to meet the capital expenditure and the interest on that. Instead of that the Bill seeks to increase the revenue of Bengal. The revenue of Bengal is proportionately small on account of the Permanent Settlement: it cannot be increased on account of that Permanent Settlement. So it is an indirect way of increasing the revenue by an indirect tax on the people. For that reason I think the [illegible]ion of Maulvi Abul Quasem that the name of this Bill be changed ought to be accepted.

Maulvi SYED MAJID BAKSH: Sir, since nobody has opposed this motion, I rise to oppose it. My friend, Maulvi Abul Quasem, labours under a misapprehension that the Bengal Development Act will have the same meaning practically as the Bengal Land Improvement Levy Act. I beg to differ from him and I shall try to demonstrate it by an illustration. A certain gentleman was travelling from London to Manchester in a railway train. He went into the restaurant car and satisfied himself very much, and when he came back to his own compartment, he was dozing from the effects of food and drink. A railway porter was then passing by and he asked him what was the distance from London to Manchester. The railway porter replied that it was about 170 miles. Well, he asked him after a while when he was again passing by what was the distance from Manchester to London. The railway porter said "I have told you already." The gentleman said "No. I asked you the distance from Manchester to London. The porter replied "It must be the same." "Not exactly my friend", said the gentleman, for example, it is one week from Christmas to New Year but a lot more from New Year to Christmas." In this way my friend will see that the difference is very much between the Bengal Development Act and the Bengal Land Improvement Levy Act. The natural, spiritual and other developments come within the purview of the very name that my friend has suggested, namely, the Bengal Land Improvement Levy Act. If the land is improved, of course every other thing, spiritual, moral and all other things are improved. If you substitute the name of Land Improvement Levy Act, it will bring about the same effect and the desired effect as the Land Development Act. The result will be the same. If you impose a levy which the people ultimately find to be very heavy, they will certainly cease sending their boys to schools and colleges. The other will also mean the same. So although you desire what you do not like to say, yet I submit that the same effect which he fears will follow from this substitution. There is a good deal of difference in the meaning also as I have suggested. I think my friend's substitution of the name will

not help him very much; so the other name may be retained. I was rather diffident as to what name I should suggest, and since I could not decide, I could not send in an amendment. As my friend of course is a master of quick decision, he sent in his amendment. I almost decided but for the fact that I received a book from the Legislative Council Department which is headed as "Note by Mr. H. P. V. Townend, I.C.S., Rural Development Commissioner, Bengal". I found there some suggestions which nearly carried me off my feet so far as the irrigation point of view of the thing was concerned. Here it is suggested that when this Bengal Development Act will come into force, these are the works that will be done: I refer to page 15 of the book: "The rest of Nuddea and Jessore, east of the Mathabhanga, would be covered by the second scheme. This would be a very large undertaking. The head of the Mathabhanga would require dredging and revetting by way of protection against erosion and increased quantities of water from the Ganges would be drawn down it. The slope of the country is sufficient to secure its flowing in a satisfactory manner to a point at least 10 miles below Dewanganj: the river would have to be widened and deepened by dredging and bad bends would have to be eased, as far as this point where a weir would be necessary. From above the weir a high level canal would be taken off and led to the east of the Eastern Bengal Railway line which it would parallel down to the head of the Ichamati. From the tail of this canal the water would escape over the area south-west of the Ichamati: and along the canal there would be connections with the heads of the Kumar, Nabaganga, Chitra and Bhairab. In the lower reaches of each of these rivers the water would be headed up by weirs and spread over the land. It is believed that the levels south of the Mathabhanga are such that the entire area between the Mathabhanga and the Madhumati down to the tidal reaches could be flushed by gravity from the works suggested above." This gives an idea of the works which the Improvement Act will carry into effect if the Land Improvement Levy Act is passed. If I understand anything of it, it means something else. I would refer you, Sir, once again to the map which is attached to the Note. As you know, Sir, from the Ganges near about Dewanganj the river Mathabhanga flows downwards. From the Mathabhanga, Chitra and Bhairab take their rise in the Jessore district. Unfortunately, when the Eastern Benwal Railway was constructed, it was placed on the east side of the Mathabhanga across the mouths of these rivers. Now, the scheme of the Development Commissioner is to dig another river somewhere down Dewanganj across the Railway and to dig another Mathabhanga and carry it downwards to Ichhamati, and from that Mathabhanga the rivers Bhairab, Kumar and Chitra will take their rise. The natural river route of the Development Commissioner——

Mr. PRESIDENT: Are you trying to invent a name? (Laughter).

Maulvi SYED MAJID BAKSH: As I could not invent a name, I am opposing all these amendments. I am not satisfied with the name, but that does not matter. I am opposed to the name proposed here, because I have not been able to decide from the schemes that I have mentioned——

Mr. PRESIDENT: Do you mean to say that it is impossible to give it a name? (Laughter).

Maulvi SYED MAJID BAKSH: Yes, Sir; and I oppose all the amendments.

Sir, here the Development Commissioner proposes to dig another river—which will be a second Mathabhanga—in order to feed all these rivers. I am afraid that the river that will be dug by the persons who will carry out the improvements will not be able to do it. It is a queer idea and to my mind it seems that the scheme has been thought out by a person who has no practical idea of the whole thing. He has neither visited the locality nor seen the rivers as they rise; and it is for this reason he has proposed an irrigation scheme. The easiest way I proposed during the last Budget discussion was frustrated by the Hon'ble Member—I do not know whether he did so from supreme knowledge or supreme ignorance. As I have said, since I am not certain what name should be put and as I have not been able to invent a name for this Bill, I am opposed to these amendments.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, I did not intend to speak on this motion, but I have been forced to do so not only on account of the remarks of various speakers but what I might describe as the rigmarole, to which we have listened, from Maulvi Syed Majid Baksh about this motion. I am afraid he does not know what he was talking about. The motions that are before the House—or rather one of the motions—want that for the name "Bengal Development Act" the name "Bengal Land Improvement Levy Act" be substituted. I take it that the mover of the motion wants a name that will give an indication of the provisions of the Bill as they are or as they are likely to be when passed into law. But that has nothing to do with the route of the Mathabhanga or Chitra, or the foolishness or otherwise of Mr. Townend's scheme.—I hope Mr. Townend will not mind this remark.

Mr. PRESIDENT: Mr. Basu, you are doing an injustice to Maulvi Syed Majid Baksh. How can you expect him to forget his pet scheme? (Laughter).

Mr. NARENDRA KUMAR BASU: Sir, I will not pursue that line. I shall simply say that, so far as this amendment is concerned, it is one that ought to commend itself to the Hon'ble Member. The words "Bengal Development Act" are capable of various meanings. I take it that the first word "Bengal" simply means the area of the operation of the Bill or that it is the Bengal Legislative Council which passes the Act. Therefore, we take it that the real name is the "Development Act." "Development" may mean development in various directions—development in services, pay and prospects of a thousand and one officers—development of departments—development of many thousand things and others. Therefore, we are not going to d[illegible] the whole of the conditions in Bengal—physical, moral, spiritual, and others. We are simply trying by this Bill—as the Bill says in the Preamble—to provide for the development of lands in Bengal and to impose a levy in respect of increased profits resulting from improvement works constructed by the Government. As has been suggested by Maulvi Abul Quasem, no harm will ensue if the title is changed. I, therefore, suggest that the name suggested by my friend in his amendment (No. 11) ought to be accepted in preference to the name which has been given to the Bill by Government.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, I find that the amendments have caused a lot of misconception in this House on such a small matter as the name of an Act. The Bill has been read by different people from different perspectives. As far as I have read the Bill, I understand that the Bill contains certain principles which the mover of the Bill wants us to accept, and if we accept them the Development Commissioner believes that the problem of Bengal will be solved and that Bengal will be a happier Bengal than it has been in the past. With that object, he has clearly given us certain ideas which are contained in the Note which he has circulated. My friend Mr. Majid Baksh, probably, from the "tail" (*sic.*) of that note wanted to explain to the House what his part of the country would get if the principles contained in the Bill were accepted by the House. The chief principle underlying the Bill is that if any improvement be made and as a result of that improvement the country is benefited, the country will have to pay half of its earnings.

Mr. PRESIDENT: What name do you then suggest, Nawab Sahib?

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I say that the Bill, as it is, conveys all the sense.

It is not a Bill, really speaking, to improve certain lands as my friend the mover of the motion has understood it to be; but it is a Bill really for the development of Bengal in the sense that all the dead and dying rivers of Bengal will be brought to life again if the scheme which the Development Commissioner has placed before us is actually

given effect to. This Bill is, probably, the first offspring of the Development Commissioner and I think it will be followed by several others. What he suggests is that if the money be forthcoming and certain work is taken up by the Government, then the rest of the country can gradually be developed and thus the whole of Bengal will be developed, so that Bengal will be worth living in. Malaria, which is playing havoc,——

Mr. PRESIDENT: Nawab Sahib, we are not discussing the question of malaria at the present moment, we are discussing the name of the Bill.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Really speaking, you are bringing in all these matters——

Mr. PRESIDENT: I am afraid not. I hope that you will give up that line of argument.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I believe that the name is a comprehensive one and it ought not to be touched.

Rai Bahadur SATYA KINKAR SAHANA: Sir, I rise to support both the amendments, viz., Nos. 11 and 14.

Mr. PRESIDENT: Are you then going to suggest a double-barrelled name? (Laughter.)

Babu SATYA KINKAR SAHANA: I am a Hindu and therefore, I always think that the name is weightier than the bearer of the name. This has been well depicted in the Purans in the story of Satyabhama's *Tuladan brata*. I think accordingly that the *nam* is better than the *nami*. In this case the name of the Bill is better than the Bill itself. Further Sir, as I could never hold with that school of thinkers who preach that language was given to man to conceal his thoughts. I am of opinion that clearness in the name of a Bill is essentially necessary, so I think that the amendments suggested by my friends do that. Therefore, Sir, I support the motions.

Maulvi ABUL KASEM: Mr. President, Sir, I rise to support the amendment of my friend—my namesake. In doing so, I might say that, although it is not a very important matter, I think that the name should be such as would convey the purpose of the Bill itself. As he has clearly and conclusively shown, the name does not convey what is inside the Bill itself, and I do not think that Government need have any hesitation in accepting the nomenclature suggested by my friend, because "Bengal Development Bill" may mean development of Bengal in other ways than agriculture. Therefore, Sir, in order to be precise and definite the name of the Bill should be as suggested by my friend, the mover of this amendment.

Secondly, Sir, I believe that unless the Government does not mean to say clearly what is intended—they have the power to carry this measure through this Council—they ought to accept this amendment.

Babu JITENDRALAL BANNERJEE: There seems to be an air of unreality about the whole debate, and it seems to me to be a sheer, bare and absolute waste of time to discuss an idle question like that of the mere nomenclature of the Bill. After all, what does the thing matter one way or the other? The Bill is what it is; the provisions are which they are; and these provisions will have to be interpreted, not with reference to the name of the Bill, but only in the light of the wording of the provisions, with an occasional reference, if necessary, to the Preamble of the Bill. The name has no statutory significance at all; and consequently it is waste of time discussing this idle question. Also, I think it is my duty to point out at this stage that it is a travesty of language to describe this Bill as a mere measure of taxation or a measure for the imposition of a levy. However, greatly I may differ from Government as regards some of the features of the Bill, I shall be no party to meeting such an irresponsible statement. It has been pointed out again and again—and it is an absolute matter of fact—that the levy will always be consequent on development not development on levy. It is no use disguising this cardinal fact; it will serve no useful purpose whatever. Let us therefore get on with the business before the House instead of wasting time on trumpery and trivial questions.

Mr. N. P. V. TOWNEND: One reason, Sir, which makes Government reluctant to accept amendments about the title of the Bill is that these suggestions have come in very late. (A VOICE: It is never too late to mend). Everybody has heard by now about the Development Bill: and everybody knows what the name means. It would be unwise therefore to change the name unless some strong reason exists for a change: and no such reason has been given by the members who have spoken so far. I might suggest also that it should not surprise the House to find Government viewing with some hesitation amendments put forward by members who have during the previous debate expressed a certain hostility to the Bill. They started by remarking, while advocating the change of title, that it was a small matter, but they ended by stressing its importance. What I fear is that acceptance of an apparently small change might eventually be interpreted as materially affecting matters of principle.

The question is whether the title of the Bill should indicate that its scope is limited. Maulvi Abul Quasem rather apologetically, on various grounds which had occurred to him, put forward the suggestion that the Bill should be called the Land Improvement or Land Development Levy Bill. It has already been shown by Mr. J. L. Bannerjee that to call it a "Levy Act" or a "Levy Bill" would be a misnomer, and

I have nothing to add to his arguments on this point. But I might say that when the question of the title was originally discussed the then Legislative Secretary remarked to me that at any rate it could not be called "the Improvement Levy Bill," because that would exclude the miscellaneous provisions from it. That seems to me conclusive against the inclusion of the word "levy" in the title: now I pass to the word "Development". Some one has been kind enough to hint that it was called the Development Bill because I wanted to associate it with the name of my present post: but this was not so. I had no ambitions of this kind. So far as I remember the name "Bengal Development Bill" was suggested by the Secretary of the Legislative Department. And it seems to me to give a good idea of the objects of the Bill.

It was remarked in the debate of a few days ago, by way of casting doubt upon this measure, that I seemed to be "very enthusiastic." As a matter of fact I was enthusiastic when I suggested this Bill: because it seemed to me a matter for enthusiasm that we might have in Bengal not merely development of land as such (for there is nothing in that to stimulate particular enthusiasm) but general development - development of the whole country along all possible lines. In particular, as was stated by His Excellency the Governor in his speech to this House recently, there was the prospect of changing the whole attitude of the people, of giving them hope that progress was possible. Ever since I came out to Bengal it has seemed as if the province considered itself "down and out,"—as if no one believed that there was any real chance of anything being done. It would be development in the widest sense if this attitude were changed,- and I believe that it can be changed if Government are given adequate powers under this Bill. It would allow not only of the direct improvement of agriculture by means of irrigation and drainage, but indirectly of measures to spread agricultural education, education as to the improvement of cattle, general education and advancement in various ways. Then, behind the proposals in this Bill, there is the problem of malaria, if you could do away with malaria in Bengal by measures which in themselves would be measures for agricultural development, it would be the greatest benefit in the world. If all this is not development, I do not know what development is.

I need hardly reply to the arguments of Mr. Shanti Shekhareswar Ray because he spoke in a spirit of hostility: and really it is no good arguing with people who are hostile to the whole idea which is the basis of the Bill——

Maulvi ABUL QUASEM: May I offer a personal explanation? It is misrepresenting me when you say I was hostile to the Bill.

(VOICES: No, No, not you, it is Mr. Shanti Shekhareswar Ray.)

Mr. H. P. V. TOWNEND: No. I did not mean that Maulvi Abul Quasem was hostile to the whole Bill—I said indeed that he spoke in rather apologetic terms: that does not suggest hostility.

I think that I am not unfair to Mr. Shanti Shekhareswar Ray when I say that he at least spoke in a spirit of definite hostility. He has no faith in the possibilities of the Bill: he dislikes the whole Bill: and he would like to defeat the Bill. In the circumstances I am justified in saying that I distrust his advice.

He referred in his speech to an argument of his about which we had a dispute (if I may call it so) during the debate when the Bill was introduced. He repeats now what he said then—that this Bill would impose a tax. He holds to it that the improvement levy is not what we allege—not a scheme for contributions in return for benefits received,—but a tax. To prove his point he argues that Government will not actually first give something to the people and then take back half; but does he really suggest that Government should borrow so much money each year, give it over to people, and then say "Now give us back the half"? That is such a puerile conception of finance that it would bring any person who held it seriously into contempt: Mr. Ray could not really expect that it would succeed. It is not fair argument: and I think the critics of the Bill in this House will realise, if they sink their feeling of hostility to the Bill, that it really aims at a good purpose and that it ought to be treated with sympathy even by people who are not in favour of it.

The reason for not adopting the title "Land Development Act," I have more or less explained in this speech, and other points have already been answered by previous speakers. I shall say no more save that I oppose the amendment.

Maulvi Abul Quasem's amendment that in clause 1 (*1*), in lines 1 and 2, for the words "Bengal Development Act" the words "Bengal Land Improvement Levy Act" be substituted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Choudhury, Maulvi Nurul Abser.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Kasem, Maulvi Abul.
Maiti, Mr. R.
Quasem, Maulvi Abul.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nagendra.
Sahana, Rai Bahadur Satya Kinkar.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Tarafder, Maulvi Rajib Uddin.

NOES.

Ahsan, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Bahadur Saral Chandra.

Banerji, Rai Bahadur Shailendra Nath.
Bajpai, Babu Jitendralal.
Badr Uddin, Khan Sahib Maulvi Mohammed.
Basu, Babu Jatindra Nath.
Basu, Mr. S.
Bose, Mr. S. M.
Chanda, Mr. Aparna Kumar.
Chaudhury, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Das, Babu Garuprasad.
Das, Rai Bahadur Satyendra Kumar.
Ensafji, Maulvi Ser Rahaman Khan.
Faroqui, the Hon'ble Nawab K.G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. R.
Gladding, Mr. D.
Haidar, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. R. P.
Hooper, Mr. G. G.
Hussain, Nawab Musharraf, Khan Bahadur.
Hussain, Maulvi Mohammad.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Khan Bahadur Maulvi Hashem Ali.
Khan, Mr. Razaur Rahaman.
Lockhart, Mr. A. R. E.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Mitter, Babu Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nag, Reverend R. A.
Nag, Babu Suk Lal.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Podder, Mr. Ananda Mohan.
Raheem, Mr. A.
Rahaman, Khan Bahadur A. F. M. Abdur.
Rai Mahasai, Manindra Deb.
Ray, Babu Amulyadhan.
Reid, the Hon'ble Mr. R. R.
Rexburgh, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhury, Babu Hem Chandra.
Sachse, Mr. F. A.
Sen, Rai Bahadur Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Sulaiman, Maulvi Mohammad.
Stevens, Mr. H. S. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 17 and the Noes 62, the amendment was lost.

The following amendments were put and lost: -

That in clause 1(*1*), in lines 1 and 2, for the words "Bengal Development Act," the words "Bengal Land Development Levy Act" be substituted.

That in clause 1(*1*), in lines 1 and 2, for the words "Bengal Development Act," the words "Bengal Land Development Act" be substituted.

That in clause 1(*1*), in line 1, after the word "development," the word "tax" be inserted.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 1(*2*), for the words "the whole," the words "Presidency Division" be substituted.

On this occasion there is hostility no doubt but constructive hostility. Just now Mr. Townend made a grievance that there should be any hostility to this measure. Unfortunately it is a duty on the part of the members of this Council who are on the opposition to examine Government measures and present before this House as well as before the country their honest opinion about the provisions of a Bill. There is no point in sitting on the opposition benches and then fail to do one's duty in the matter. Mr. Townend has correctly stated that I am

against this measure and naturally I take it to be my duty to oppose the objectionable features in the Bill. He has used the word "Hostile"——

Mr. PRESIDENT: Please now tell us why you propose to substitute the words "Presidency Division".

Mr. SHANTI SHEKHARESWAR RAY: I hope you will give me an opportunity to justify my proposition, when you have allowed Mr. Townend to use the word "hostile". But it is not hostility, as we understand it, between Italy and Abyssinia. But unless——

Mr. PRESIDENT: Order, order: Will you please tell us why you want to substitute the words?

Mr. SHANTI SHEKHARESWAR RAY. Well, Sir, I am bound to accept your ruling but when certain members use certain language against me it is only fair that I should be allowed to make my position clear.

Mr. PRESIDENT: You have already made your position very clear. It is no good dilating on that point any further.

Mr. SHANTI SHEKHARESWAR RAY: Well, Sir, so far as this amendment is concerned I want that the blessings of this Bill should be confined to the Presidency Division because during the last few months that the Bill has been before the country the only support or what may be interpreted as a sort of support that has come for this measure is from one or two gentlemen of that area. One of them is the Hon'ble Khan Bahadur Azizul Haque who represents the district of Nadia in this Council. He was very enthusiastic about the Bill; he acclaimed this Bill as a beneficent measure. There is another member (who also represents the district of Nadia), who gave to a certain extent his support to the principles of the Bill. In view of such sentiments I think there is a certain amount of support for this measure from this area. The Hon'ble Member in charge of the Bill as well as Mr. Townend gave us to understand when this Bill was introduced into this House that it was not meant for the eastern Bengal or northern Bengal districts as there was no likelihood of any of these development schemes being taken up in this area. As a matter of fact Mr. Townend seemed to challenge the right of any members of this House coming from other parts of Bengal to discuss or offer their opinion on this measure because it was not a matter which concerned them. If that is the considered opinion of the Government of Bengal that this measure is going to be applied only to certain areas and that it is not going to be applied to the eastern or northern districts of Bengal then there is

no use having this measure for the whole of Bengal. There has been opposition to this measure in many districts—in eastern Bengal, in northern Bengal and in certain districts of the Burdwan Division. Only the other day there was a mammoth meeting in Burdwan presided over by Sir Nalini Ranjan Chatterjee when emphatic protests were recorded against this measure. I understand two Members of the Bengal Cabinet—one a Minister, the Hon'ble Sir B. P. Singh Roy, and the other an Executive Councillor, the Member in charge of the Bill, were present at that meeting. They were in a position to gauge the feeling of the people on this matter. It is claimed that this is a measure for the benefit of the people, and is in response to the demand of the people. If that be so, I think the Hon'ble Member ought to take some notice of the feeling of the people in this matter and Mr. Townend has stated in his note that Government is very sensitive to public opinion. Well, Sir, let Government justify that statement of Mr. Townend's. If the Government really are sensitive to public opinion they ought to drop this measure at least so far as those areas where there have been outspoken, emphatic and authoritative protests against the provisions of the Bill are concerned. There is no use enacting a measure admittedly for the benefit of the people when there is no support of the people for that measure. There is in this measure the proposal to impose a sort of irrigation tax——

Mr. PRESIDENT: But we are not discussing that matter at this moment. It is also not necessary for your purpose so far as the amendment now before the House goes.

Mr. SHANTI SHEKHARESWAR RAY: My point is that the main feature of the Bill is the imposition of a tax, and the whole of Bengal with the possible exception of the Presidency Division is against the imposition of a tax. May I refer to the meetings which were held to protest against the tax in certain districts?

Mr. PRESIDENT: You may do that, but you need not discuss the general provisions of the Bill at this stage, because we have already done that.

Mr. SHANTI SHEKHARESWAR RAY: But I was incidentally trying to refer to the nature of the protests, and why there had been such protests, etc.

Mr. PRESIDENT: My ruling is that when you are moving an amendment your remarks must be confined to that amendment. You had an opportunity of criticising the principles of the Bill at the general discussion that had taken place and you will have an opportunity

of criticising the provisions of the Bill when we take it clause by clause. Your amendment requires you to show that the Presidency Division has given its support to the Bill and that other parts of Bengal have emphatically opposed it. You have already done that.

Mr. SHANTI SHEKHARESWAR RAY: I am thankful to you, Sir, for making my point concise.

Mr. PRESIDENT: We have to do that, because we have got to deal with about 800 amendments.

Mr. SHANTI SHEKHARESWAR RAY: Our difficulty is that we have not the Parliamentary training of the occupant of the Chair, and as you have put the matter so well in a nutshell, Sir, I do not think I need say anything more.

Maulvi ABUL KASEM: I strongly oppose the amendment proposed by my friend over there, and I do not think any speech would be required to make the House refuse the amendment. But if I rise it is simply for a little matter. My friend said that it is only the people of the Presidency Division who want the Bill and that there have been protests all over the country. I do not know whether eastern Bengal or for the matter of that northern Bengal will be benefited or not. I say and say with a sense of responsibility that this Bill if not primarily intended for the people of the Burdwan Division will affect and I hope it will help the people of my Division. Sir, reference has been made to a "mammoth" meeting in Burdwan. Unfortunately I too was present at that "mammoth" meeting and what was the protest against and by whom? The protest emanated from certain members of the bar library because this Bill precludes the civil courts from interfering either in fixing the amount of the levy or otherwise and what this Burdwan mammoth meeting wanted or suggested was that the sense of British justice had gone wrong because the amount was fixed by the revenue officers or by the Collector, (who means the constable), and not by the civil courts, so they made a protest against the high levy. And what the lawyers suggested was that the cultivators would have to pay a large amount of this levy to the *zemindars* as revenue or rent, and what little was left behind was only to be taken by the bar library. I myself was present at the meeting and I opposed the resolution which was drafted but not carried. The motion was to drop the Bill but the people opposed it and, what is more, I can assure you that the feelings of the Burdwan people were worked up by the people who called this meeting saying that the water rate for the people living on the sides of the Damodar and Eden Canals would be greatly reduced. It was on that basis and on that basis alone that they attended the meeting. I must however tell this to the credit to the Hon'ble Member in charge of the

Bill that when he heard that a "mammoth" meeting was to be held in Burdwan, he ran up to the place and attended the meeting till the end. He explained the object of the Bill to the people who had gathered there and also explained the misrepresentations made by some of the great orators present there and the result was that the people did not accept the resolution put forward, but they accepted an amended resolution. But I don't say that we have no grievances. What concerns me particularly and concerns cultivators and agriculturists of 60 square miles in the area between the Ajai and the Konoor who had no rice crop for the last 35 years is that such a scheme is wanted, but what I am afraid of is that when Mr. Townend, the framer of the Bill, goes out as a Commissioner, all the enthusiasm of the Treasury Bench might subside and perhaps we would be left where we were. I hope that active steps will be taken to ameliorate the condition of the people, and I therefore oppose my friend

(At this stage the Council was adjourned for 15 minutes.)

(After Adjournment.)

Mr. P. BANERJI: It was amusing, Sir, to find Maulvi Abul Kasem change his front overnight.

Maulvi ABUL KASEM: Sir, I strongly protest against this language. I have not changed my front overnight.

Mr. P. BANERJI: Sir, I should ask Maulvi Abul Kasem not to get excited, but if he will hear me, he will find that I am absolutely right. He was just telling us that there was a meeting at Burdwan. We have it on authority that at that meeting where the Hon'ble Member in charge, the Hon'ble Sir Bijoy Prasad Singh Roy, the Secretary of the Raiyats Association and others were present, Maulvi Abul Kasem supported the wholesale rejection of this Bill.

Maulvi ABUL KASEM: I protest against this statement.

Mr. P. BANERJI: Sir, he said that it was a got-up show of the members of the legal profession. It is quite unfair for him to say that.

Maulvi ABUL KASEM: I opposed the resolution, and then after my speech and some other speeches the resolution that was proposed was dropped.

Mr. P. BANERJI: Sir, the resolution that was passed was for the purpose of dropping this Bill altogether. That resolution was passed, and in support of that on Saturday also there was another meeting held in Calcutta presided over by——

Mr. PRESIDENT: Do you accept Maulvi Sahib's statement?

Mr. P. BANERJI: Yes. I was speaking about the resolution that was passed at that meeting and also about the resolution passed at the meeting held in Calcutta. I will explain to you the reason. If the past is an index of the future, then they will realise that for the last 50 years they have not gained by this measure. It is again propounded by the Development Commissioner. He says that the malaria will vanish. You know, Sir, that malaria has not vanished in spite of the Eden canal. Now, what is the experience of the people of Burdwan? Originally when the canal was cut about 50 years ago, the rate was only 5 annas and then it was increased to 12 annas per bigha. Then in 1934 after the construction of the Damodar canal the rate was originally Rs. 3-8 and that was fixed by Government on 7 years' lease. In July and August 1934 Government supplied some water but immediately after the introduction of this Bill a notice was served on all these tenants and that notice was for the cancellation of the lease given for 7 years. Government cancelled this lease and demanded Rs. 4-8 per acre for one year's lease. Therefore, last year the people were opposed to Government's change of policy. They think that Government ought to stand by the terms of the old lease, but Government did not. As Maulvi Abdus Samad has said, Government are in their powerful position and can do whatever they like; and here in fact Government were guilty of breach of promise as stated by Mr. Jitendralal Bannerjee. Now, some people accepted this rate of Rs. 4-8. In spite of this no water was available, and I do not think either the Development Commissioner or the Hon'ble Member in charge can contradict me that this year no water is available. However much Maulvi Abul Kasem may be inclined to minimise the influence of that meeting—he said that it was convened at the instance of some members of the legal profession—it will be apparent that it would not have been possible for them to bring at a moment's notice these 8,000 people to protest, had they not a real grievance, and they said that from their past experience they could not rely on Government. Fifty years ago before the construction of the Damodar canal there was no case of taking water by compulsion or of infringement of the terms of the lease. Therefore, they were reluctant to thrust a scheme on the unwilling people. The people of the Burdwan Division do not like this Bill for that particular reason. Now, I feel that for this simple reason Government have considerably changed the Bill and made certain concessions.

It is also said and from the map before us we find that it is not the intention of Government or Mr. Townend to improve or develop the whole of Bengal: it is not his intention. He wants to confine his activities only to certain areas of Bengal. It is very clear that every part of Bengal is, more or less, malaria-stricken—that is a fact and there is no getting away from it. Mr. Townend has emphasized the fact that Government's intention is to drive away malaria from Bengal. It is also a well-known fact that the districts of Jessore and Nadia—particularly Jessore—as it has so often been repeated in this Council—have lost a considerable portion of the population through the ravages of malaria. I shall not be wide of the mark when I say that Jessore alone has lost over 2 lakhs of people through malaria. These are the places where malaria of a virulent type is always present. The intention of my friend, Mr. Shanti Shekhareswar Ray, is to minimise the mischief that is intended to be done by this Bill and to confine the activities of Mr. Townend only to the Presidency Division. By the "Presidency Division" I do not think that it refers to all the five districts of the Presidency Division, but only to those portions of the Divisions which are within the red line. It excludes the 24-Parganas, Khulna, and certain parts of Jessore. Therefore, it refers only to Jessore and Nadia, and some portions of Murshidabad. If it be his intention to confine his activities to this part of Bengal, my friend, Mr. Ray, wants to show to us what the prospects of improvement will be. We never believed that in the Burdwan Division there was any chance of improvement—particularly in view of the experience of the canals excavated there. That is the view which Mr. Ray holds, and we, on this side of the House, feel that this is a Bill which will cause great hardship and mischief as it is a taxation measure which will touch the pockets of the poor people.

Sir, with these words I support the motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I wonder why the proposer of this amendment mentioned the name of one member from Nadia and hesitated to mention the name of the other member. I wonder whether it is because his revered leader, has given his support to this Bill, that he did not like to mention his name. Anyhow, in spite of the fact that though his revered leader supports the Bill, Mr. Ray is against the Bill altogether.

Sir, there is one thing which I want to make very clear. Whatever Mr. Townend may have said, I made it clear that this Bill is applicable to the whole of Bengal, and there is no reason to think that it would be confined to only the decadent areas. It is true that the necessity for development in the decadent areas is far greater than that in other areas. Therefore it is possible that major schemes of irrigation will

be taken up earlier in the decadent areas than in others. As I mentioned last time and I repeat it here—it is possible to take up measures for the improvement of irrigation, sanitation and agriculture in Eastern Bengal and other parts just as you take up the big schemes in the decadent areas, and I may state, for the information of the House, that decadent areas are not confined to West Bengal and Central Bengal alone, but there are decadent areas in north Bengal as well.

Now, Sir, as far as this motion is concerned, Mr. Abul Kasem has given an emphatic reply to what has been stated by the two speakers. As an elected representative of the Burdwan district, he has welcomed this Bill and he feels the necessity of this Bill and he is convinced that if this Bill be passed into law, there is every hope for the development of his division. I may also here state that Mr. Abul Kasem never supported the motion for the throwing out of this Bill at the Burdwan meeting. Now, the question remains so far as public opinion is concerned, I am afraid that there is a great deal of confusion of thought and misunderstanding. What can we expect from the people outside the Council when we find even members of this Council, who have listened to the debate when the Bill was referred to Select Committee and also to the speeches delivered on the floor of this House on the motion for recommittal, getting up again and again and saying that the Eden Canal was intended as a measure for irrigation purposes and for eradicating malaria from the Burdwan Division. Mr. P. Banerji has just said that in spite of the Eden canal there is malaria prevalent there. Now, Sir, the Eden canal was never constructed as an irrigation canal: it was constructed for the purpose of supplying pure drinking water to the people of the locality; and when it was found that it was possible to irrigate a portion of the land adjoining the canal, Government gave facilities for irrigation. It was never intended as an irrigation canal and therefore the canal could not supply adequate quantity of water at the right time. It is very wrong, I think,—and I hope members will in future realise this—that one should not build up arguments on the results of the Eden canal. (MR. P. BANERJI: What happened after the construction of the Damodar canal?) If the member will only listen instead of interrupting me, I am sure he will learn more and his ignorance will be dispelled. As I was saying, after the construction of the Damodar canal it was made possible to put in more water into the Eden canal and thereby ensure a regular supply of water at the right time from both the canals and that is the reason why the rate for these canals has been made the same.

Another point, Sir, which I would like to make clear to this House is that there is no justification for saying that the people who contracted for the supply of water from the Damodar did not receive water. I may inform the House that from the 23rd of June last, there has been

plenty of water in the Damodar canal and if anybody did not receive water, it was not due to the lack of water in the canal. It may have been due to the fact that the people did not get through the preliminaries which would have enabled the officers to arrange for the supply of water at the proper time. Perhaps they did not sign the agreements in time and they put in their applications very late and certain preliminary enquiries had to be made before water could be supplied- —

Mr. P. BANERJI: What about the cancellation of the leases?

The Hon'ble Khwaja Sir NAZIMUDDIN: That question is irrelevant here, and when the proper time comes I will submit my explanation. Therefore, I say that there is no justification for accepting the proposal of Mr. Shanti Shekhareswar Roy.

Mr. Shanti Shekhareswar Ray's amendment was then, by leave of the Council, withdrawn.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 1(3), in line 2, after the word "appoint," the following words and figures be added namely:—

"after 31st December, 1937."

Sir, the clause runs as follows:—

"It shall come into force on such date as the Local Government may, by notification, appoint."

Sir, I hope the Government, and particularly the Hon'ble Member in charge, will have no objection to accept this amendment. I do not know whether the Hon'ble Member in charge has changed his mind over the week-end. But if he has not, I think he cannot possibly have any objection to this suggestion. He gave the House to understand that it was not the intention of Government that the Bill should come in force before the introduction of the new constitution——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, on a point of personal explanation, I may state that I never gave the House to understand anything like that. What I stated is that by the time some of the big schemes will come into operation, provincial autonomy will be in working order.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I would suggest the Hon'ble Member in charge to refresh his memory. Though he did not say so in connection with the matter referred to, but it was one of his

arguments—and he repeated it more than once—not only last week but he made it a point when introducing the Bill. In support of the measure he told us repeatedly: "Why are you agitated over this Bill? This Bill is going to be administered not by the present irresponsible and irremoveable Government but it will be administered by your representatives here." Well, Sir, if the Hon'ble Member will refer to his reported speech, I think he will accept my statement of the facts——

Mr. PRESIDENT: What is your statement of facts?

Mr. SHANTI SHEKHARESWAR RAY: Sir, my statement of facts is that the Bill will come into force after the new constitution comes into force.

Mr. PRESIDENT: The Hon'ble Member denies that. Mr. Ray, are you able to quote his exact words?

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am sorry I have not got the reference here, but I think you will find it at page 78, Volume II, 1935.

Mr. PRESIDENT: If you are not able to quote his exact words, the best course for you is not to pursue the matter any further and accept the Hon'ble Member's statement. What the Hon'ble Member has stated—if I understood him aright—is that before all the development schemes are put into operation, they shall be placed before the local legislature and by that time the new constitution will perhaps come into existence.

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir, that is so.

Mr. SHANTI SHEKHARESWAR RAY: Of course, Sir, if the Hon'ble Member denies on the floor of the House that he never made such a statement, it is my duty to accept it and I do so. Anyway, I have placed my arguments on the basis that this measure is going to come into force after the new constitution comes into existence. However, I cannot challenge the Hon'ble Member's statement in view of the remarks he has made to-day. There is that argument that the administration of this Bill will rest with the representatives of the people who will be in charge of the administration after the introduction of the new constitution. Well naturally, Sir, I think the constitution will come into force sometime next year. It may be in April or it may be later on. Sir, the House may be inclined to think about the Bill in a different way if the administration was to be in charge of the real

representatives of the people. But that can only happen if the administration is left over till the introduction of the new constitution. I take from the view expressed by the Hon'ble Member that it is his intention to bring into force this Bill at once. Well, he cannot take up two different courses. He cannot avoid either the responsibility for introducing this measure and carrying out the provisions of this measure, or to leave it all to his successors. I am placed in a difficult position because I built up my whole arguments on the basis of that statement which I interpreted as——

Mr. PRESIDENT: You may labour your point on other arguments that you have already advanced. Your point is that this Bill should not come into operation until the new constitution is in force and you may adduce reasons as to why you want to defer it, leaving aside what the Hon'ble Member had said. Perhaps there are other arguments which you are able to bring forward in support of your contention.

Mr. SHANTI SHEKHARESWAR RAY: It is no doubt a very unpopular measure. I realise that the Government of Bengal have brought it forward with the best of intentions but a measure of this nature, if it is at all successful, must depend on the willing co-operation of the people. It is not possible to secure that willing co-operation till the new constitution comes into force and I am doubtful even if it will be possible to secure their willing co-operation to a measure of this nature. But by delaying the enforcement of this Act it will enable the Government to get rid of the opprobrium of this unpopular measure and if the Government under the new constitution think that this measure is not practical and is not approved by the people they will refrain from bringing it into force.

The Hon'ble Khwaja Sir NAZIMUDDIN: I will be very brief as regards this amendment. Apart from all other objections, there is one most obvious objection, that we have had two years of drought and had this Act been in force the people along the Damodar canal area and the area commanded by the Damodar canal would have received water, everyone of them and all of them, and there would have been bumper crops. As it is, only a limited number of people who had the foresight, contracted for water, and they have had a bumpr crop as well as those on the land side by side of the Damodar canal. The same has happened this year also. For some reason or other the people, gambling on rain, did not apply for water. The result was that the rain did not come and within two weeks we had many applications—over 50,000—from people. This shows, supposing this Act is not in force, and supposing, God forbid, we have another year of drought these people may again be landed in difficulty by gambling on rain and deprived of good crops which they are bound to get.

This seems a sufficient and good reason why the Act should be enforced as soon as possible. If anyone goes to Burdwan now, they will find that, except for land bordering on the canal area or area commanded by the canal area, both Damodar and Eden canals, there is practically no crop whatsoever; there has been no transplantation whatsoever and there is a danger of a total failure of crops on all lands, other than those commanded by the Damodar and Eden canals. Therefore it is a question of such grave importance that there is no justification whatsoever for delaying the enforcement of the Bill once it is passed into Act.

Besides that, as I have already announced in this House, if this Bill is passed without modifications which will make it unworkable, then Government are going to provide Rs. 2,26,000 in three years' time for surveys and contour surveys. Taking up of new schemes will all depend entirely on this survey, and a delay of two years means that no scheme can practically be taken up till five years hence. Is it fair to the decadent areas to postpone the improvement for another five years? There is no justification whatsoever, and I maintain again to clear the point of misunderstanding that has been created in the mind of Mr. Shanti Shekhareswar Ray, that what I did say was this: that by the time this Act is enforced the new Constitution will be in power and practically all schemes will be taken up and all the action will be taken up under the new Constitution. The question of the levy will be one year; it will take about six months to get the sanction of the Government of India and frame rules and it is only a question of six months after that that the Act will be in force. After this six months the new Constitution will come in. But if we accept this amendment it will delay everything for two years which is not fair to the people affected. Therefore I oppose the amendment.

Mr. Shanti Shekhareswar Ray's amendment was put and lost.

Clause 1.

The question that clause 1 stand part of the Bill was put and agreed to.

Clause 2.

Maulvi ABDUS SAMAD: I beg to move that clause 2(*a1*) be omitted. Sir, this definition was not in the original Bill but it has been added by the Select Committee. It is very vague and the words vegetables and the like are wide enough to cover any sort of crop. Now if it was the intention of the Select Committee that agricultural land should include land used for growing every kind of crop then it would have

been better to state that clearly. Instead of that Select Committee has given a roundabout definition, namely, that it includes land, growing vegetables and the like. So the definition is very vague. In the second place I object to the retention of this definition on the ground that it will hit the tenants very hard. The imposition of levy for the improvement of agricultural land is itself a hardship as has been said by many of the hon'ble members in this House in connection with the debate on the recommittal motion. If over and above that levy on agricultural produce an additional levy is imposed for the growing of vegetables and the like then it will certainly entail a greater hardship upon the poor agriculturists. So the land on which vegetables and crops of that kind are grown should not be included within the definition of agricultural land. Then there is another difficulty. We know that a village or *mauza* consists of two parts; the inhabited part of a village or *mauza* is generally called *gram* and the rest is called *math* or field where crops are grown. It is a well-known fact that in the districts comprising the Burdwan Division and a part of the Murshidabad district vegetables are generally grown within the area which is the inhabited portion of a village. These vegetables are generally grown on the *udbastu* lands and on the banks of tanks; these lands will seldom receive the benefit of the irrigation from the proposed irrigation scheme. But these lands will certainly be included in the notified area and as such they will be liable to assessment. Thus it will be an additional hardship on the people. The people will not get the irrigation water but still they will be liable to pay levy. Then there is another reason why the vegetables should not be included. It will be very difficult for the officer entrusted with the preparation of the estimate to ascertain the actual outturn of these vegetables, especially the green vegetables, which we all know are daily plucked and brought to the market for sale. They are not gathered at the end of the season like paddy, wheat and other staple food crops. How then it will be possible for the officers to prepare an estimate of the outturn of the vegetables unless an officer is deputed to keep an account of the daily outturn of the green vegetables? As this is not possible, vegetable crops should not come within the purview of this Act; for all these reasons I commend this amendment for the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I at this stage move a short notice amendment which appears on the printed paper?

Mr. PRESIDENT: I think this is not the proper stage to do so. The present amendment wants the deletion of the clause laying down the definition of agricultural land. I think your amendment had better be moved in connection with the next one standing in the name of Rai Bahadur Akshoy Kumar Sen which seeks to lay down an alternative definition.

Motion No. 19 and your short notice amendment may be discussed together.

Mr. P. BANERJI: I also gave notice of a similar amendment for the deletion of this clause but when Maulvi Abdus Samad has moved for its deletion I would merely support it and not move my amendment, for the simple reason that the Select Committee has brought in this clause which we consider to be unnecessary and the Hon'ble Member now finds that in order to rectify the mistake he has to come in with another amendment. But we had no opportunity of giving notice of any further amendment in view of these amendments submitted afterwards: The Select Committee's amendment runs thus: agricultural lands include lands used for the growing of vegetables and the like. Therefore it stands to reason that agricultural lands are lands not certainly usually meant for growing vegetables and the like—most ambiguous and vague. Therefore, according to the suggestion of Maulvi Abdus Samad there should have been no definition of agricultural land at all. Now as I have said, in order to rectify the mistake the Hon'ble Member now comes forward with an amendment saying that it does not include fruit-guardens, orchards or homestead lands. Evidently from the opposition of this House the Member now realises that it was at least very unfair——

Mr. PRESIDENT: But you are not supposed to speak on that amendment. The question now before the House is whether clause 2 *(a1)* should be deleted or not.

Mr. P. BANERJI: Our point is that even with the inclusion of these new words of the Hon'ble Member's it is not comprehensive; the mischief is not removed.

Mr. PRESIDENT: But you are for total omission.

Mr. P. BANERJI: I submit that this clause should be totally deleted and this deletion would not make it necessary for the Government to come up with further amendments for we think that the definition of the agricultural land as we find it in the Tenancy Act(?) is quite enough.

Mr. H. P. V. TOWNEND: It is a storm in a tea cup. The idea originally was that the exemption of such things as homestead lands or small gardens on homestead lands should be done by executive order: Government did not want to deal with these lands in the way suggested by the hon'ble member. But Government did want to have the power to impose the improvement levy where there were market gardens, where people were growing vegetables for profit on a very big

scale, and where expenses would be reduced and profit would be increased (and the yield would also be increased) if there were proper irrigation and drainage. It is a well-known thing that certain classes of land flooded by the Damodar grow the best vegetables in Bengal: and it seems very likely that if similar lands were brought into existence by proper irrigation the people concerned would make a large profit. But it is quite unreasonable that a man growing vegetables for sale should escape payment when a man growing paddy (and making less profit off it) perhaps the next piece of land has to pay the levy. So Government suggested this amendment in Select Committee. Afterwards someone suggested that we are intending to impose the levy on ordinary gardens; but we do not want to do so on ordinary gardens but only on gardens which grow vegetables on a large scale for sale in the market. We do not want to impose the levy on gardens which grow a small quantity of vegetables for domestic consumption or even for petty sale and Bengal grows too few vegetables as it is: we want to encourage their growth rather than discourage them in the way suggested by the member. So we oppose the amendment.

Maulvi Abdus Samad's amendment was put and lost.

Rai Bahadur AKSHOY KUMAR SEN: I beg to move that for clause 2(*a1*) the following be substituted, namely:—

"(*a1*) 'agricultural lands' include lands used for agricultural and horticultural purposes."

I submit that a definition of agricultural land is necessary in this Bill, in view of other provisions subsequently found to be in the Bill and so in order to avoid any anomaly or future complications I have proposed this amendment. But in view of the Hon'ble Member's proposed amendment which he intends to move, namely, No. 1 of the draft amendments, and in view of the fact that we have got his assurance that he will move that amendment I do not think my motion is necessary as purpose is served by his amendment.

Mr. PRESIDENT: Then, why did you move your motion at all?

Rai Bahadur AKSHOY KUMAR SEN: In view of the Hon'ble Member's amendment I do not move my motion.

Mr. PRESIDENT: But you have already moved it: Do you want to withdraw it with the leave of the House?

Rai Bahadur AKSHOY KUMAR SEN: Yes, Sir.

The amendment was, then, by leave of the Council, withdrawn.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that to clause 2(*a1*) the words "but does not include fruit-gardens, orchards or homestead lands" be added.

The reasons for this amendment have been already explained by Mr. Townend in course of his speech on amendments Nos. 17 and 18 and I have got nothing further to add.

Maulvi SYED MAJID BAKSH: May I rise to ask for some information of the Hon'ble Member? I heard Mr. Townend to say that there is no reason why we should not tax the land which grows fresh vegetables for sale; well and good: he is perfectly right. But may I ask if he means land abutting the canal or——

The Hon'ble Khwaja Sir NAZIMUDDIN: The mere fact that a land abuts the canal or is near it does not suffice, unless it can be shown that the land has definitely improved in its yield and is of profit to the owner. It is all a question of land being benefited.

Maulvi SYED MAJID BAKSH: Then you mean on account of silt deposits? Why did you not say so before?

The amendment was put and agreed to.

Rai Bahadur AKSHOY KUMAR SEN: I beg to move that before clause 2(*2*), the following be inserted, namely:—

"(*1a*) 'Canal' means a canal as defined in clause (*1*) of section 3 of the Bengal Irrigation Act, 1876."

Mr. H. P. V. TOWNEND: Government are prepared to accept this amendment. Originally it would appear in one place only but if the amendment is accepted it will occur in several places and so the definition will be more suitable.

The amendment was put and agreed to.

Babu KHETTER MOHAN RAY: I beg to move that in clause 2(*2*), in line 1, after the word "officer" the words "not below the rank of a deputy collector" be inserted.

My reason is this: that large power is going to be given to the Collector. Whoever that officer may be, he should not be below the rank of a deputy collector. He must be an officer capable of inspiring confidence in the people among whom he will have to work. Therefore I submit that an officer who is below the rank of a deputy collector should not be invested with the powers of a Collector within the meaning of the Act.

The Hon'ble Khwaja Sir NAZIMUDDIN: The definition is the usual one in such cases and we find no reason to depart from the usual course. Besides, a change might be inconvenient if officers of another Service were given any power as Collector. Therefore I beg to oppose the amendment.

The amendment was put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 2(3), in line 7, for the words "at one time" the words "at the time of revenue survey of 1841-51 A.A." be substituted.

Sir, the reason for my amendment is this. In Bengal, the major portion of the deltaic area formerly consisted of rivers and their beds have now been converted into agricultural lands. The language of this clause seems to me to be unduly wide enough to embrace all such river beds and I am afraid, if the section remains as it stands, private rights to such lands formed from river beds will be injuriously affected and people will be seriously prejudiced, if Government takes them as "dead or decayed rivers."

Sir, it may be that people are enjoying their private rights there for over a century, and I do not think it fair to encroach upon their such long-standing rights on the excuse of developing the surrounding area. So I consider it equitable to fix up at least the limit of time within which the river beds must have been converted into agricultural fields so as to make them liable to be included within the category of "dead and decayed rivers."

Sir, the Revenue Survey has clearly depicted the position of all rivers, etc., that existed at that time and the map prepared in course of such survey would be the best guide as to whether a particular depression was the bed of a river or not. Hence, it is best to fix the point of time to the date of the Revenue Survey in the area; and if any person be found in enjoyment of private rights of property in a depressed area from before the Revenue Survey, I think his such rights should be left undisturbed.

Moreover, Sir, in my opinion, the entire portion of the paragraph beginning from "and includes also any depression which at one time formed part of a river bed" should have been omitted for doing justice to many of the cases I have just mentioned. But as it may be contended that those which are of recent origin ought to be included within the category of the term "dead or decayed river," I think those which have a much earlier origin should be excluded. With these words I commend my amendment to the acceptance of the House.

Maulvi SYED MAJID BAKSH: Sir, I beg to oppose this amendment. The real purpose of this Act seems to be to revive the dead and dying rivers. If there is anything to justify the levy of this new

tax it is this and the benefit that is to be derived from such levy. The benefit that is to accrue to the lands and rivers adds justification to this Act. I think my friend labours under a misapprehension that perhaps under this Act Government will take forcible possession of the land without any compensation whatsoever. I do not think that is the purpose of the Act, because if Government takes possession of any land and if there is objection, I think Government will take recourse to the Land Acquisition Act if they cannot do it privately, and in that case my friend will have the liberty to come before the Court and file his objection to the proceedings, and if he can prove to the satisfaction of the authorities that he is entitled to some compensation, it will no doubt be granted to him. If my friend limits the dead and dying rivers to those at the time of the Revenue Survey of 1841-51, of course many rivers will be left out of the operation of this Act, because my friend will remember that for the first time these dead and dying rivers came into existence mainly when the railways were constructed over the bed of the rivers without leaving sufficient passage for water. The Bill wants to make good what through oversight or want of knowledge was done to the rivers. If my friend does not want interference with the beds of rivers which did exist at the time of the Revenue Survey, I think almost all the rivers will be left out. My further objection is that perhaps my friend knows that even after 1851 there was another Revenue Survey in 1856, and that is the time from which my friends the *zemindars*, derived their record of rights. If the suggested substitution is made, most of the rivers will be left out of the operation of this Act.

Mr. H. P. V. TOWNEND: Sir, there seems to be a good deal of misunderstanding on the part of Mr. Roy. Government have no intention of entering upon lands which have come under cultivation owing to alluvion. The dead rivers with which they seek to deal are the actual river beds, not places where river beds once ran. Otherwise most of Bengal would be involved. However if Government had had any such intention, the amendment would make things easier for them, because many of the rivers shown as rivers in 1851 have changed their courses since and owing to alluvion what was then river has become level land—so level that no one looking at it would think it a part of the river. Apart from that, there is a solid difficulty that these Revenue Survey maps have been declared in Major Hirst's book "Notes on the Old Revenue Surveys" to be most inaccurate as regards everything except boundaries; he says that all the interior details that were laid down in the maps, not fixed by traverse, must be looked upon with suspicion. So the remedy proposed by Mr. Roy will not be a remedy at all. The definition is only required in connection with clause 26, and I think that officers of Government should be trusted not to try and declare as a dead river something which is not a river at all and which is not even a depression or deserted bed of a river.

I must oppose the amendment, if the hon'ble member is not prepared to withdraw it in view of the explanation.

The amendment was then, by leave of the Council, withdrawn.

Mr. S. M. BOSE: I beg to move that in clause 2(3), in line 8, for the words "in which" the words "through which" be substituted.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, Government are prepared to accept this amendment.

The amendment was then put and agreed to.

Mr. H. P. V. TOWNEND: I beg to move that in clause 2(3), in line 8, after the word "any" the word "perennial" be inserted.

Sir, it has been pointed out that the whole object of the definition might be defeated if this word were not included, because if there was ever a flow of water in the middle of the rains, the depression would not come under this definition, and it might be impossible (or might be more difficult) to include it as a "dead or decayed river."

The amendment was put and agreed to

Maulvi ABDUS SAMAD: Sir, I beg to move that to clause 2(3), the following be added, namely:—

"as well as an irrigation tank which has been wholly or partially silted up by efflux of time."

The definition in the Bill clause 2(3) includes any depression which at one time formed part of a river-bed but in which there is no longer any flow of water. If depressions are considered to form part of dead or decayed rivers, I think tanks can also be included within this definition. It is a known fact that in the Burdwan Division and in part of the Presidency Division from time immemorial tanks have been the chief source of irrigation. These tanks were excavated by ancient kings and also by the people both for the purpose of fishery and irrigation. Gradually these tanks have not only silted up but have been converted to arable lands which the *zemindars* have settled with the tenants and are getting increased rent. It is the primary duty of the landlords to fulfil their obligations under the Permanent Settlement. They are bound by the conditions of the Permanent Settlement to keep intact the irrigation tanks, but they failed to perform their duty and therefore great mischief has been done to the tenants. The result is that in a year of drought there is no water in the tanks. There are innumerable tanks in the province in which if water is properly stored and if they are kept in proper condition, the tenants would not have suffered for want of rain. So, if these tanks are included within the purview of this Bill,

then the work of the Irrigation Department would be much lightened, because in many places in the Burdwan Division Government at a very small cost by re-excavating these tanks can supply water to the tenants without any recourse to schemes of constructing canals at a heavy cost. For these reasons I move my amendment.

Rai Bahadur SATYA KINKAR SAHANA: Sir, I rise to oppose this amendment for inclusion of tanks into the category of dead and dying rivers. Some of these tanks are held in *lakhraj* right and some in occupancy right and so on. If they are included into the category of dead and dying rivers, it will involve Government in litigation and cost. Further, Sir, linguistically it will be wrong to include tanks into the category of dead and dying rivers. With these words I oppose the amendment.

Maulvi ABUL KASEM: Sir, I rise to support the motion of my friend to my right. An objection has been voiced by my friend from Bankura because his tanks will become other people's property. What is more is that it will cost the Government a good deal of money, but the cost will be nominal as compared with that of the big and major schemes like the Damodar and the Ajay. The canals—be it the Damodar, the Bakreswar, or the Eden—are good in themselves and are useful. What the country, however, wants is that the whole country should be irrigated and made fertile and not left decadent as it is to-day. I speak, Sir, with special, personal, knowledge of the Burdwan Division. Our irrigation tanks, of which there were several thousand in the Burdwan district itself, —I think there was a large number of them in the districts of Bankura and Birbhum—have all been silted up, with the result that not only do we fail to get facilities for irrigation but they have proved to be very injurious to our people. These tanks used not only to be the reservoirs for our irrigation but the reservoirs for the storage of surplus rain-water which was collected there and was used later on. Now, the water remains stagnant in the fields and the vegetation becomes absolutely decomposed, with the result, as has been mentioned by Sir William Wilcocks and Dr. Bentley and others, that the fields breed malaria. The result is that the condition of the people has not only become miserable but pitiable as well. Take the case of the Burdwan district: on account of the ravages of malaria and the periodical attacks that our people are subjected to, the agriculturists—the peasants and labourers—have lost their strength and capacity to do their work; and our friends from other parts of Bengal will be surprised to learn that we in Burdwan have to indent our labour for agricultural purposes from the neighbouring districts of the Sonthal Parganas and some portions of the Hazaribagh district. The position is that we cannot till our lands and we have to pay for it; and owing

to want of irrigation and other facilities the productivity of the soil has become very negligible. On the top of all this sometimes we are subjected to the ravages of floods as both the Damodar and the Ajay are hill-fed rivers. One day there is such a great flood of water through these rivers that the neighbouring fields are flooded, and the next day one is not surprised to find their beds so dry that one cannot get even a tumbler of water. It is no exaggeration that owing to the flood-water not being drained off our crops are destroyed to a very large extent. For, in the years 1913, 1915, and 1916 a total area of about 60 square miles between the Ajay and the Kanoor and of about 1,000 square miles north of the Damodar were destroyed. Although in the official report it was stated that no damage was done, I persisted in asking the authorities to examine the matter. Lord Ronaldshay—as he then was—the Marquis of Zetland—as he now is—went to Burdwan, walked over the fields and came to the conclusion that the official report was incorrect. However, Sir, that is past history. What we want is that if any measure is to be adopted by the Government for ameliorating the condition of the people and is to be effective and really beneficial to the people at large, and not to a particular tract of the country—the tanks should be cleaned up, repaired and re-excavated, so that we may have a perennial supply of water.

Mr. PRESIDENT: Before I allow the discussion to proceed further, I think I had better have a doubt, which has crept into my mind, cleared up. I would like either the Hon'ble Member in charge of the Bill or Mr. Townend to say if the matters suggested in this amendment can come within the scope of the Bill.

Mr. H. P. V. TOWNEND: Sir, I have looked into the matter and I feel I have great doubt about it. If Government could acquire the land first, then the matter might be worth considering by Government.

Mr. PRESIDENT: There is no such provision in the Bill.

The Hon'ble Khwaja Sir NAZIMUDDIN: Not, as the Bill stands.

Mr. PRESIDENT: As the Bill stands, this matter can not come within its scope. Re-excavation or improvement of tanks cannot be effected by direct methods with the help of any provision of this Bill. Was it ever contemplated by this Bill?

Mr. H. P. V. TOWNEND: Sir, it was not originally contemplated but it was suggested at a late stage of the Select Committee's sitting. Without giving away any secrets of what transpired in the Select

Committee I might state that on the last day, when the matter was brought up, it was thought that it was too late to make such an alteration as is now suggested.

Mr. NARENDRA KUMAR BASU: Sir, it all depends upon the meaning of the clause. Clause 24 (*1*) gives the local Government power to modify obstructions to the passage of water through or over land. It runs:

"The local Government may, by notification, declare that in any area specified in the notification every person shall be bound, for irrigation purposes or for the drainage of land which has been irrigated, to afford a free passage of water through or over any land in his possession or under his control."

This provision, as I read it, means water which comes from the irrigation canal.

Mr. PRESIDENT: My ruling is that these matters cannot come in. The amendment in question is not in order.

(The amendment having been declared out of order, further discussion on it was not proceeded with.)

Kazi EMDADUL HOQUE: Sir, I beg to move that after clause 2 (*3*) the following be added, namely:—

"(*3a*) 'improvement levy' means and includes the capital expenditure incurred for the purpose of improvement with or without interest."

Sir, we on this side of the House are opposed to the imposition of a levy on account of improvement effected in agricultural land, and for that purpose I have brought forward this amendment. What I mean to say is that in this way Government should not make a bargain for making any improvement in the lands of tenants, because it is, I submit, Sir, the bounden duty of Government to look to the welfare of the rural population. For some years past the cultivators have been passing through a very critical time owing to the low prices of their agricultural products. As they cannot make their both ends meet, any levy, in whatever form it may be imposed, will be disastrous and will tell very heavily upon the poor people. If it be the bounden duty of Government to improve the economic condition of the people at large, it is only meet and proper on the part of the Government that they should not be exacting in this matter.

Sir, the Hon'ble Member stated the other day that surely some improvement would be effected and he would be in a position to put some money into the pockets of the agriculturists which otherwise

would not come to them. It is therefore a legitimate claim that they should participate in the profits. But the question of profit and loss does not come in. You are the Government and the *raiyats* are your subjects and you are to look after them. It seems therefore undesirable on the part of the Government to ask for a certain portion of the income that will accrue to the tenants on account of the improvement effected. Anybody but the Government could very well lay that claim on such profit, but here the relation is such that Government can have no right to claim any apportionment of the profit accruing to the tenant from the improvement effected. But even if the Government do not see their way to forego their claim to a share of the profit, Government may go so far as to agree to realise only the capital expenditure incurred. It may be that the Government will find enough money at its disposal to carry out the project of development or may be it will not be able to meet the cost of improvement out of their own funds and may have for the matter of that to borrow money for effecting the improvements.

Now, if the Government can find money out of the fund at its disposal it shall limit its demand to the realisation of the capital expenditure only but if the Government will have no money for the purpose at its disposal, and will have to borrow in order to effect this improvement then the Government may have capital expenditure with interests thereon realised from the tenants.

With these few words I move my motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: This raises a very important question, namely, that the improvement levy should be confined to the actual amount of capital expenditure and interests thereon. I am afraid the mover of this amendment does not realise what is going to be the cost of these irrigation schemes. They are not small. They won't be in thousands but in lakhs and crores and their maintenance costs and recurring expenditure are going to be tremendous. Over and above that under this scheme only when an improvement is effected and income is increased the Government is going to take its share. But there may be occasions when the improvement will be effected but the return will not be enough to cover its expenditure to capital and interest charges and the State will have to bear the burden. Therefore if the Bill is amended as proposed it will become impossible to put any big scheme through whatsoever and therefore I oppose this motion.

The amendment was put and lost.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 2 (*f*), in line 2, after the word "Government," the following be added, namely:—

"at the instance of a district board and on the recommendation of the Bengal Legislative Council."

The Hon'ble Member in charge of the Bill has repeated more than once that this measure is for the benefit of the people and the schemes which will be taken up will be in the interests of the people. Sir, I must admit that the Hon'ble Member in charge of the Bill has made a great concession to public demand on a certain point. I would refer to the sanction of the Bengal Legislative Council which is necessary in connection with the taking up of an improvement work as well as the imposition of the improvement levy. This is a new departure and all credit is due to the Hon'ble Member for taking this bold step. But, Sir, I would like to point out that when he has made this concession to public opinion he would also see his way a step further. I ask him that not only the recommendation or the sanction of the Bengal Legislative Council would be sufficient but such work will be taken up at the instance and suggestion of district boards. After all it is the local people who are the best judge whether they are in a position to meet the financial liabilities which may be incurred by a scheme which may be taken up under this Act. The scheme may look very promising on paper but it may be too costly. A Minister deciding whether such a scheme should be taken up or not, say, sitting in Calcutta or Darjeeling, will be in a very delicate position unless he gets certain indication from the local people in the matter. There is no doubt the provision of the sanction of the Legislative Council is good but after all members of the Council cannot be expected to be the judge of a particular scheme in a particular area. It would be very difficult for the Bengal Legislative Council to take an intelligent view about the necessity, about the ability of the people of say, Nadia or Burdwan or Jessore, to shoulder the burden which must be shouldered if a particular scheme is carried out. So, as a further safeguard, I would suggest that this scheme should be considered by the district boards of the locality and then if there is a demand for such a scheme, if there is a demand for such a work, if there is no local opposition but local co-operation, then such a scheme may be taken up. Sir, whatever the Hon'ble Member in charge of the Bill may say the levy will certainly be considered as a tax. The villager will not have the intelligence to make a distinction between a levy or giving up a share of profits. He understands the word "tax". Whether it is a part of the profit or a free gift to the villager or not it will appear to him as tax pure and simple, and unless there is a good local demand the collection of such tax will be very difficult. I was reading the other day in a debate in the House of Commons——

Mr. PRESIDENT: I do not understand one point. I might ask you to clear that up before you proceed any further. Do you mean to say that no proposal for improvement would come to the Legislative Council unless it is passed by the district board?

Mr. SHANTI SHEKHARESWAR RAY: *Yes, I was reading a* debate in the House of Commons; there was a reference to the collection of an irrigation tax and retention of the military. It was suggested that the retention of the military in the area was necessary for the collection of the irrigation tax. I was rather taken by surprise by such a statement in the House of Commons. But the more I think of this motion, the more I realise that there is perhaps some justification for the provision. For instance, if the Hon'ble Member in charge of the Bill on the recommendation of the expert authorities is convinced that a particular scheme is very alluring that it would pay its way, the Minister without local knowledge may sanction it. Well, I may say from my experience in the past that there have been such occasions and I had testimony of the hon'ble member from Birbhum. He told us of a canal where no water was available. That was the scheme that had the sanction of the authorities. Perhaps there was no local demand and local consultation to avoid such things in future. It is desirable that the schemes of improvement should have the approval of the people of the locality as presented in the district board. The Hon'ble Member has made many illuminating statements during the progress of this Bill in the House. We know that the Bill will not be held up till the advent of the new constitution. I have very little doubt about it because my view is that Government want money immediately and the real purpose of this Bill is to get some money from the Burdwan area and of course as soon as this measure is passed it will be enforced in that area not for any improvement but for the collection of taxation. As I was going to say he has made the illuminating statement that these big schemes will cost lakhs and crores, there might be minor schemes and that is a danger. Mr. Townend has assured us that the people from North Bengal and East Bengal need not bother their heads. It is not going to affect North Bengal but West Bengal. There is no scheme at present for the North Bengal and East Bengal districts and there is no cause for alarm. There is the Hon'ble Khwaja Sir Nazimuddin's statement that the Bill is for the whole Bengal and there are minor schemes that may be taken up. We are afraid of this attitude. I know the Hon'ble Member feels that opposition has been to a certain extent won over to the side of Government by concessions right or wrong, reasonable or unreasonable. He can now unfold his plan and he is doing that. As I sensed this attitude on his part I think in the interests of the people and in the interest of the Bill to avoid future complications, it is fair that this additional safeguard should be incorporated in the Bill so that there may not be any trouble in future. The underlying principles of the Bill are certainly great and they are laudable. The real danger is the interpretation of the way in which we are going to carry these principles into action. It may not be the lot of the present incumbent of this Department to carry out the details in connection with the schemes and to give sanction to the scheme.

It may be in the hands of others who may not be so wise or so competent as to provide against any maladministration and any misuse of this measure, which is claimed by Government to be a beneficial measure, I think the Hon'ble Member will agree to this change which after all, if I have understood him aright, is not of much substance because his idea is that he is doing something for the good of the people. He wants to do something for the good of the people and needs their co-operation.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am surprised that a member of this House should have moved an amendment of this character. What does it amount to? It amounts to this: that if the Government want to take up a scheme and if the Council is unanimously in favour of the scheme, still it cannot be taken up and nothing can be done until and unless a district board agrees and moves that the scheme be taken up. Such an idea is absolutely preposterous. Restricting the right of Government to execute work, restricting the power of the Legislature to recommend the taking up of schemes, it is proposed to thrust all that responsibility on the shoulders of the district boards. I am sure no member of this House can accept a proposition of this nature. Besides, there may be schemes affecting two or three district boards and there may be schemes which affect the whole province: are those schemes going to be shelved and not taken up simply because one district board refuses to pass a resolution in favour of it, that is to say; will a district board be able to dictate to the Government of Bengal and the Legislative Council what should be done for the development of Bengal? I do not propose to take up the time of the Council by advancing any further argument against a motion of this character.

The amendment was put and lost.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 2 (4), in line 2, after the word "Government" the words "of Bengal" be inserted.

Sir, I want this amendment against as a precautionary measure. Sir, there will always be the temptation on the part of the Government of Bengal to get something out of the people whenever they find that they can bring any scheme of improvement under the purview of this measure. Just now the Hon'ble Member in charge of the Bill raised a point of order in connection with the irrigation tax. He gave us to understand that this measure is not concerned with——A good many things I am afraid will be left vague. It is only a few minutes ago that the Hon'ble Member rose at your suggestion to explain some difficulty. So there are many such vague points which will have to be cleared up in future. For instance, improvement work has nowhere been defined and it may conceivably cover anything on earth. In the

earlier course of to-day's debate I mentioned that a lamp post costing Rs. 25 or Rs. 30 might be fixed up before a jute mill and it might be claimed that that had conferred some benefit on that mill. What I am urging is that we should be very definite about the nature of the work that is intended to be taken up.

Mr. PRESIDENT: What is your difficulty?

Mr. SHANTI SHEKHARESWAR RAY: My difficulty is that it may be that the Government of India may sanction a certain amount of money for opening up railways. The cost is met by the Government of India because the railway is not a provincial subject but the Minister in charge here in Bengal my claim that because the railway line has been improved and because there has been a certain amount of increment in the value of the land nearby, people will get increased profits out of their holdings and accordingly they should pay something. How are we to meet the arguments of any future Minister under the Act whereby he will be entitled to do that under the statute? My friends of the British group perhaps think that they have their own safeguards in the coming constitution and will be governed by them and that they will save them but when there is this provision in the statute what Governor can interfere with a discretion of the Minister in charge when he decides to impose a tax on the profits of the jute mills? I have mentioned by way of example a lamp post, but it may be something of a more substantial nature. So I ask my friends of the British group to come and make a common cause with us and see that this measure is not left vague, that there is no loophole left for Government to get something out of the people subsequently. I know Mr. Thompson is always anxious to give advice to the Government to get hold of the *zemindars* and get something out of them but there will be *zemindars* and there will also be members of the Council who may be in a position to give advice to Government to catch hold of the jute mills of Bengal.

I find, further on, that there is an amendment in the name of Mr. Ross that suggests that such works shall not include any work in respect of roads or railways. My amendment too has almost the same object. The railways are not a provincial subject and if the words "of Bengal" be inserted and the words "carried out with the funds of the Bengal Government" is not mentioned, there will be no scope for bringing in the works within the scope of the clause which Mr. Ross wants to avoid by his amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: The spectacle of Mr. Shanti Shekhareswar Ray flirting with Mr. Thompson was certainly very amusing but I am afraid there was very little of logic in the proposition that he put forward.

Mr. NARENDRA KUMAR BASU: And much less of response from that side!

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes. No improvement levy can be imposed unless the sanction of the Legislative Council is obtained. So the idea of a Minister imposing an improvement levy because a railway which has been constructed and the share value of a jute mill has increased will not tempt Mr. Thompson to support Mr. Shanti Shekhareswar Ray. I oppose the amendment because it is possible that Bengal might combine with a neighbouring province like Bihar in carrying out a big scheme of improvement which will benefit the people of Bengal as well as Bihar, and if you restrict it to Bengal only there is the danger that in a case like that a levy cannot be imposed.

Mr. SHANTI SHEKHARESWAR RAY: Is there a Development Bill in Bihar as well?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is quite possible. For instance a portion of land may belong to Bihar where the head works will have to be constructed in order to work a combined scheme; besides, there is the possibility of combining with Assam as well, therefore I oppose the amendment.

The amendment was put and lost.

Mr. NARENDRA KUMAR BASU: Sir, before you call upon the different proposers of this one amendment regarding the omission of the words "before or" which stands in the name of 26 of us, myself included, I would like to have your ruling—not exactly your ruling—but some information from you, on the amendments that were circulated last night on behalf of Government— I mean the amendments that have been tabled both by the Hon'ble Member and Mr. Townend. On going through these amendments it seems to me that some portions of it are couched in language which in my humble opinion does not mean anything and some of them are such that they cannot in my opinion be accepted by the House. I would, therefore, like to have information whether Government stick to the amendments as they have been circulated. They have not been considered by the Select Committee or anybody else and I am sure if these amendments are discussed in private between the members of Government and the members of the Select Committee or a smaller committee the defects will be made patent to the Government. What I was asking information about is this: are these amendments going to be taken up in the order in which they stand in the order paper, or will it be possible for the members of the House to put in further amendments with regard to these amendments? Because, I was just going to say by way of illustration, it may be that

some of the amendments are all right in principle but the language in which they are couched really in my humble submission makes that principle absolutely impossible of achievement; unless we are allowed to put in or to suggest amendments the position before the House will be either to accept the amendment or it goes. This is the information I want and on that would depend very much the question whether this amendment should be moved at least by me.

Mr. PRESIDENT: I may tell you that these amendments will be taken up in the order of the clauses to which they refer. As regards moving an amendment to an amendment, no notice is required; I shall admit it unless it is irrelevant or frivolous or is not in conformity with our rules and standing orders. I think the Chair has always given such opportunities in the past, and if it can be proved to my satisfaction that a proposed amendment to an amendment is in order and of real importance, I shall certainly allow it to be moved without notice; more so, as I have allowed the Hon'ble Member to move certain amendments at short notice.

Mr. NARENDRA KUMAR BASU: There is another point, Sir, on which I seek your guidance in connection with the amendments suggested by the Hon'ble Member with regard to clauses 5A, 5B and others. On the acceptance or otherwise of them by the House would depend mostly the present amendment, and in that view may I request you to adjourn the discussion of this matter?

Mr. PRESIDENT: Is there any objection?

The Hon'ble Khwaja Sir NAZIMUDDIN: We have no special objection to adjourn the discussion of this matter, but whether the amendments suggested by me are accepted by the House or not, Government cannot accept the present amendment.

Mr. PRESIDENT: In that case I think the discussion of this matter may be postponed but there are several other members involved in it and I do not know if they are of the same mind.

Mr. S. M. BOSE: Sir, I am one of the members involved in this amendment and I have no objection to deferring it.

Mr. PRESIDENT: All right. I might tell the House at this point that when the Hon'ble Member proposed to bring forward certain amendments at short notice, the House agreed to it. In order to see that those amendments might not be sprung upon the House as surprises, I insisted on those amendments coming to me at least two days

before they are actually moved and I took particular care to see that the admitted amendments were forthwith sent to the members.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I do not think it is possible to take up this amendment unless the other one is discussed.

Mr. PRESIDENT: Why? Your amendment affects lines 3 and 4 of the clause, whereas the other one which we have just put off affects line 2.

Mr. SHANTI SHEKHARESWAR RAY: Very well, Sir, in that case I move my amendment, although frankly speaking I am not prepared for it.

I beg to move that in clause 2 (*d*), in lines 3 and 4, the words "or proposed to be constructed by the Government" be omitted.

Sir, in giving this power to the Government of Bengal we are frankly speaking taking a great risk. It is not only in respect of any scheme that has the approval of the Bengal Legislative Council, any scheme that has been before the public and in respect of which the Government of Bengal have incurred a certain amount of expenditure, but by this clause they want to bring in all schemes which they might propose to take up.

Mr. PRESIDENT: You undoubtedly lack preparation. (Laughter.)

Mr. SHANTI SHEKHARESWAR RAY: I admitted that before, Sir, but I must obey the ruling of the Chair. I am trying to place my case before the House as best as I could. I do not see any reason why this power should be given in connection with such schemes. I am afraid I must stop here.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I oppose this amendment. It will be impossible to take up any scheme if these words were omitted. The omission suggested will mean that the Act will only apply to schemes already constructed.

The amendment was then put and lost.

Mr. PRESIDENT: Order, order: the Council stands adjourned till to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Tuesday, the 6th August, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 6th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 104 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Secretarial departments in union boards.

***13. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the standard of education and property qualifications of the presidents and members of the union boards is generally low?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of taking steps to organise and establish secretarial departments in each union board by educated youths?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) Government do not think that the standard of educational and property qualifications of the presidents and members of union boards is generally low.

(*b*) Does not arise.

Educational qualifications of members of union boards.

***14. Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Does the Hon'ble Minister in charge of the Local Self-Government Department realise—

(*i*) that the standard of educational and property qualifications of the presidents and members of the union boards is generally low; and

(*ii*) that the discharge of civic duties suffers in consequence?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of taking steps to introduce a minimum educational qualification of Matriculation Examination as an amendment in the Village Self-Government Act as soon as possible?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) and (*ii*) Government do not consider that the standard of educational and property qualifications of presidents and members of union boards is low and have no reason to believe that the discharge of civic duties has suffered on this account.

(*b*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Is it not a fact that a large majority of the presidents and members of union boards in the Eastern and Northern Bengal districts are men with very low educational qualifications, and that as such they cannot follow the instructions given by the inspecting officers in the matter of maintenance of registers and other things connected with audit?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is not the information of Government, Sir.

Deposits by candidates seeking election under the coming Reforms.

***15. Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Appointment (Reforms) Department aware that the amount of security Rs. 250 to be deposited by a candidate for his election to the Bengal Legislative Council was fixed in the better days of India?

(*b*) If the answer to question (*a*) is in the affirmative, does the Hon'ble Member realise that this amount is very high from the viewpoints of agricultural people at this age of economic crisis?

(*c*) Are the Government considering the desirability of taking early steps for a substantial reduction in the said amount of security on the eve of the coming constitutional Reforms for giving facility to the candidates standing from agricultural people?

(*d*) Is the Hon'ble Member also aware of the heavy amount of security Rs. 500 to be deposited by a candidate for his election to the Legislative Assembly (Central Legislature)?

(*e*) If the answer to (*d*) is in the affirmative, are the Government considering the desirability of taking steps for sending a recommendation to the Government of India for a substantial reduction in this amount too, for giving facility to the candidates standing from agricultural people to stand at the election to the Lower House of the Central Legislature?

MEMBER in charge of APPOINTMENT (REFORMS) DEPARTMENT (the Hon'ble Mr. R. N. REID): (*a*) The security of Rs. 250 was fixed in 1923, and whether that year was "in the better days of India" is a matter of opinion.

(*b*) and (*c*) These questions are under consideration.

(*d*) The amount of security to be deposited by candidate for election to the Legislative Assembly is Rs. 500, but whether it is heavy or not, is a matter of opinion.

(*e*) This question is under consideration.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Local Boards.

8. Maulvi SYED NAUSHER ALI: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) whether it is a fact that a proposal for abolition of local boards has been under the consideration of Government;

(*ii*) whether it is a fact that opinion on the said proposal called for by Government has already been received; and

(*iii*) whether it is a fact that Government have already decided to abolish local boards?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Minister be pleased to state when the Government intend introducing legislation for the purpose?

(*c*) If no decision has yet been arrived at—

(*i*) when can a decision be expected; and

(*ii*) what is the reason for the delay in arriving at a decision?

(*d*) Will the Hon'ble Minister be pleased to lay on the table the opinion on the proposal for the abolition of local boards received up to date?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (*a*) (*i*) Yes.

(*ii*) No. Reports from all the Commissioners of Divisions have not yet been received.

(*iii*) No.

(*b*) Does not arise.

(c) (i) and (ii) Government hope to arrive at a decision in the near future. The delay is due to the fact that the question involves the examination of several controversial matters and amendments of the Local Self-Government Act and the Village Self-Government Act.

(d) Government are not prepared to lay on the table the opinions on the proposal.

Distribution of motor-tax to local bodies.

9. Rai Bahadur SATISH CHANDRA MUKHERJI: (a) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether it is a fact that the second half-yearly grant of 1933-34 to the local bodies out of the motor-tax was less than the amount promised to be paid by the Government?

(b) Is the Hon'ble Minister aware that this shortage in the grant, apart from the inordinate delay in payment, has been causing inconvenience to the local bodies and has, in particular cases, resulted in their inability to fulfil the commitments made by them on the strength of the assurance of the Government to pay them a higher amount?

(c) Will the Hon'ble Minister be pleased to state the reasons for the reduction in the grant?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: (a) Yes. The second instalment was less than the first.

(b) and (c) The total amount available for distribution after meeting collection charges, etc., was originally calculated at Rs. 6,30,000. This figure was subsequently reduced to Rs. 5,88,750 on the basis of the figures received from the Accountant-General, Bengal. The shortage therefore comes to Rs. 41,250 or 6 per cent. Government are not aware that on account of this small difference any local body has failed to fulfil its commitments.

Faridpur station.

10. Rai Bahadur AKSHOY KUMAR SEN: Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state when the Railway authorities propose to open for passenger trains the newly constructed railway station at Faridpur?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Sir John Woodhead): The new Faridpur station will be opened for traffic about 1st October, 1935.

Chittagong-Dohazari Railway.

11. Haji BADI AHMED CHOWDHURY: (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state when the Chittagong-Dohazari line, Assam-Bengal Railway, will be extended?

(*b*) Will the Hon'ble Member be pleased to state whether in extension of the Chittagong-Dohazari Railway, the line will pass to the west of the Dahikhal?

(*c*) Is the Hon'ble Member aware that the line referred to in (*b*) will avoid the erection of bridges and shorten the line through the densely populated area?

(*d*) Will the Hon'ble Member be pleased to state when the female waiting rooms in Janalihat, Gomdandi, Dohazari stations in the Chittagong-Dohazari Railway in the Assam-Bengal Railway will be erected?

(*e*) What are the reasons for not issuing daily return tickets in the Chittagong-Dohazari Railway?

(*f*) What are the reasons for issuing daily return tickets in the Chittagong-Nazirhat and Chittagong-Feni lines?

(*g*) Are the Government considering the desirability of issuing the daily return tickets in the near future in the Chittagong-Dohazari line?

The Hon'ble Sir JOHN WOODHEAD: (*a*), (*b*) and (*c*) The extension of the Chittagong-Dohazari branch has been indefinitely postponed.

(*d*) The waiting room at Gomdandi station is under construction and those at Dohazari and Janalihat will be considered along with the general scheme for additional waiting room accommodation for passengers when the financial position improves.

(*e*) Daily concession return tickets on the Chittagong-Dohazari Railway were not considered financially justifiable as cheap season tickets were provided for the branch.

(*f*) Day return tickets for third class passengers were introduced between Chittagong and Feni and between Chittagong and Nazirhat as an experimental measure designed to increase the number of passengers travelling by train.

(*g*) No.

Process-servers' pension scheme.

12. Mr. P. N. GUHA: Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing for the year 1934—

(*i*) the total amount realised from process-fees;

(*ii*) the total amount paid to the process-servers as pay;

(*iii*) the total amount realised as boat-hire for the process-servers;

(*iv*) the total amount paid to the process-servers as boat-hire;

(*v*) the total amount realised from fines imposed on the process-servers;

(*vi*) the total amount realised as custody-fee for the properties attached by the process-servers;

(*vii*) the total number of process-servers who were granted pension during the year; and

(*viii*) the approximate amount required to give effect to the revised scheme of pension for the process-servers?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): A statement is laid on the table.

Statement referred to in the reply to unstarred question No. 12.

(*i*) Civil Courts—Rs. 24,74,637. Criminal Courts—Rs. 1,10,273. Revenue Courts—Not available without a laborious enquiry.

(*ii*) Civil Courts—Rs. 8,55,665. Criminal Courts—Rs. 1,42,732. Revenue Courts—Not available without a laborious enquiry.

(*iii*), (*iv*), (*v*) and (*vi*) The information required is not available and could not be obtained without a laborious enquiry which Government regret they are not prepared to undertake.

(*vii*) 85, of which 70 relates to Civil and the rest to the Criminal and Revenue Courts.

(*viii*) No estimate can be given.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(The discussion on the Bengal Development Bill, 1935, was resumed.)

Mr. SARAT KUMAR ROY: Mr. President, Sir, I beg to move that in clause 2(*d*), in line 4, after the words "constructed by the Government," the words "which has the effect of increasing the outturn of crops of any land within a notified area and," be inserted.

Sir, I think the definition of the expression "improvement work" is an attempt to put on the statute the essentials which must be satisfied in order that any work of development executed by the Government may be denominated as "improvement work." The essential referred to in the definition consists in a mere declaration to that effect by the Government. It has no reference as to whether it actually brings in improvement or not, although the Hon'ble Member in charge of the Bill has more than once put it before this House, in almost unequivocal language, that nothing should be called an improvement unless it is actually found to have conferred some benefit to the people. What I intend by my amendment is only to bring the language of the Bill in conformity with the declared intention of the Member in charge, and agreeably with such intention, I wish to add the words:—

"which has the effect of increasing the outturn of crops of any land within a notified area and' after the words "constructed by the Government."

As my amendment is only to make the intentions of the framer land within a notified area and" after the words "constructed by the and to him and so I move.

Mr. H. P. V. TOWNEND: Sir the effect of this amendment would not be quite as the hon'ble member would imagine. The difficulty is that very frequently it will be necessary to declare a work to be an improvement work before it is constructed, in order to enable Government to obtain sanction, or a recommendation, from the Legislative Council at the outset and to carry out the procedure laid down in clauses 3, 4 and 5. If Government had to wait until they learnt what actual increase in the outturn of the crops from any land resulted from any work, they would have to construct the work first, and only then come to a decision whether it could be financed under the machinery of this Bill. Such a risk could not be faced in connection with large and expensive works: and as the works to be taken up (we hope) to be very large works, Government would not, if the amendment were adopted, be able to carry them out at all. They would not be able to face the risk that eventually the sanction to the imposition of the improvement levy might be refused. It is, therefore, necessary to oppose this.

The amendment was put and lost.

Mr. J. B. ROSS: Mr. President, Sir, I beg to move that in clause 2(*f*), in the last line, after the word "Act" the words "but shall not include any work in respect of roads or railways" be added.

Sir, I am constrained to move this amendment because we in this group feel that the definition of "improvement work" which the Government seeks to obtain from this clause is much too wide. If one refers to the clause, he will notice that there is a definite distinction drawn between the word "Government" on the one hand and the words "Local Government" on the other. I listened yesterday to the Hon'ble Minister's reply to Mr. Shanti Shekhareswar Ray on this matter, and I must say that I was not very much convinced by his reasonings. It is very definite that this clause, as it stands, will enable the Local Government to take advantage of any works done by the Government of India or any Government for that matter, and to say that these are improvement works under this Act and then to seek to impose a levy on account of those works.

Another matter which causes us a certain amount of apprehension is in connection with the two words "before or." These words widen the scope of the clause considerably, and although I have no doubt that they were put in for an express purpose, that is, to enable certain canals which have already been constructed to be brought within the scope of the Bill, nevertheless they are sufficiently definite to enable any construction of any description to be brought within the scope of the Bill, even though it had been constructed ten years before or earlier. Although I have no suspicions so far as the present Government is concerned—I have had to sit at one time on the Calcutta Corporation, and there I gained first-hand experience of exactly how in the working of an Act, it could be made to read something quite different from what was originally intended—we have to look ahead and have got to take care that these Acts are framed in such a way that there is no possibility of the provisions being abused. As the clause now stands, railways can be declared to be an improvement work. From the Statement of Objects and Reasons published with the original Bill, it will be seen that there was never any mention of railways at all. It was a question of revival of decadent rivers, irrigation schemes, drainage schemes and the like. As we have already to pay for our railways by means of taxation at the centre, it should be made very clear that railways cannot be declared to be an improvement work under this clause.

Similarly, in regard to roads, we pay for roads in two ways just now; one under the Bengal Cess Act. Cesses are imposed by the Government of Bengal and the money realised by them is paid to the district boards for the construction of roads. The other is through the allotment by the Central Government from the petrol taxes. There should, therefore, be no possibility of our being compelled to pay for the improvement of roads by a third agency or for taxing us further for the construction of roads. Yet under this clause it is quite possible for any Minister who is so minded to say that the construction of a road through say a tea garden has improved the facilities for the

recruitment of labour, for bringing in stores, for getting out tea and various other things like that, and on those grounds to suggest that a levy might be imposed on the profits of that tea garden. You must see, Sir, that this clause, as drafted, can definitely be read to include all roads and railways, although I understand that that was never the intention. I, therefore, request the Hon'ble Minister to give consideration to my amendment and, if possible to accept it.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, we have very carefully considered this amendment, and I very much regret that Government are not in a position to accept it. Mr. Ross's speech can be divided into two parts. His first objection is that, as the clause stands, it is possible that works constructed 10 or 15 years ago may be included in the future, and a levy imposed on it. For example, a railway constructed, say 20 years ago, may later on by a future Government be claimed to have increased the yield in the district, and they may put a levy on it. I submit that in the Bill there is ample safeguard against any such thing. First of all, Government have to prove that the construction of a railway has increased the profit from what it was at the time just before the construction of that railway. That is to say, if a railway had been constructed, say, 20 years ago, and a levy was proposed to be imposed afterwards, it would have to be shown that owing to the construction of that railway, there had been an increase in the income of the people of the locality, and that, therefore, a levy was justified. I submit, Sir, that it is practically impossible to make out a case on those lines. The second safeguard is that the Council's sanction and approval has got to be taken before anything of this kind can be done.

Now I will come to the question of the future as regards roads and railways. I think it would be unfair to tie the hands of the future Government against including the construction of roads which may be found necessary as a part of a big scheme. It is quite possible that we may, by our irrigation scheme, increase the yield of crop that has been grown in the past, and that it may be found necessary to provide roads so that the surplus crop can be taken to the proper market. If this amendment is now accepted, it will be impossible to construct roads under that scheme. Over and above that, it will be necessary that only those roads that will be constructed under the scheme can be subject to a levy and not the roads that had been constructed out of the proceeds of the petrol tax or other taxes. Therefore, I do not think the Council ought to tie the hands of Government, especially the hands of the Government of the future, in this manner and prevent real improvement being made in the condition of the people because, as I have said, it is necessary that not only we must increase the crop, but that it may be necessary to provide facilities for taking that crop to the suitable markets, and the construction of roads may be one of

the most important features of a big scheme of irrigation over an area where there are no good roads. Similarly, there is the example of the United Provinces Government where they have constructed light railways for carrying sugarcane to the factories. If the sugarcane crop is developed in Bengal and factories are constructed, it may be found necessary to construct light railways expressly for the purpose of carrying sugarcane to the factories quickly, and in such a case, if there is any justification, and if the Council is satisfied that the construction of a light railway is expressly for the purpose of improving the income of the local people then and then only the Council will sanction the imposition of a levy. I submit that there are ample safeguards in this Act against any high-handed action of the future Government, and therefore I think that this amendment, if accepted, will not be in the best interests of the people. I, therefore, request the hon'ble member to withdraw the amendment.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Mr. President, Sir, I am very much disappointed at the reply which my hon'ble friend, the Member in charge of the Bill, has just given. When this proposal was mooted, I never thought that it was in the minds of the Government or of anybody else that any improvement effected in the matter of roads and railways will ever come within the purview of this Bill if passed into law. Probably my friend in his overzealousness thought that it might include a work like this, and this has stiffened the back of the Hon'ble Member in charge of the Bill. Perhaps he thinks that he can serve his country better if he can bring the improvement work in the matter of roads and railways within the purview of this Act. Before this Bill came up to this House, nobody here or elsewhere ever contemplated that the improvement works included roads and railways as well. If that was the intention of Government, what objection was there to accepting Mr. Shanti Shekhareswar Ray's plea that Government is not honest in its conviction, and Government wants to put before this packed House——

Mr. S. M. BOSE: Can the member use that expression, Sir?

Mr. PRESIDENT: Nawab Sahib, you must withdraw the expression "packed House."

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I bow to your ruling, Sir, and I withdraw, and I call it a thin House. However, that is not the point.

I hope I shall have a suitable reply from the Member in charge that the Bill does not contemplate the improvement of the country in the matter of railways and roads, because the railways and roads can never increase the outturn of any crop.

Sir, if the Bill is thrown out, I believe there will be no grievance from any quarter. We are under British rule for over 150 years now, and we have never heard up to this day that the construction of railways and roads is to be followed by an increased assessment of land revenue or rents. The idea that has been made here by the Hon'ble Member is peculiar indeed; no road is constructed unless the Government knows that it is intended for the better administration of the country as also for giving greater facilities to the people in the matter of communication, and it is never constructed for the purpose of raising a revenue. I hope and trust that Government will be better advised to exclude from the operation of this Act all those works which were not meant only to increase the revenue of the State and afforded greater facilities for the travelling of the administrators of the country.

With these words, Sir, I support the amendment moved by Mr. Ross.

Babu JITENDRALAL BANNERJEE: May I, at this stage, put one question to the Hon'ble Member to which an explicit answer might be desirable and which might avoid misunderstanding?

Mr. PRESIDENT: I have no objection.

Babu JITENDRALAL BANNERJEE: Sir, the construction of every road in the mufassal is expected to give increased market facilities to the tenant, and thereby increase his profits; are we to understand that wherever this has happened, the land that is going to be benefited will be subject to an improvement levy or are we to understand that the land will be subject to an improvement levy only when the road has been constructed as a part and parcel of an irrigation scheme?

The Hon'ble Khwaja Sir NAZIMUDDIN: It is never intended that roads already constructed should be included; only when a road has been constructed as a part and parcel of an improvement scheme for the purpose of the imposition of a levy, that a levy can be raised.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, I have listened with a great deal of attention to the speech of Mr. Ross in moving the amendment as well as the reply of the Hon'ble Member to Mr. Ross's speech as also the reply of the Hon'ble Member to the question put by Mr. J. L. Bannerjee. My submission is that no reply has been given to the arguments put forward by Mr. Ross, so long as the words "before or" are there, so long as there are two classes of Government contemplated by that clause, namely, the Government of Bengal and some other Government; I say that so long as these words are there, there is no reply in the Hon'ble Member's speech to the arguments advanced by Mr. Ross. It is no use for the Hon'ble Member getting up in his place now and saying that there is no such

intention on the part of the present Government. As Mr. Ross made it perfectly clear, he was willing to trust the present Government; and I can say—absolutely and reasonably can say—that the present Government have never betrayed the interests of that side of the House and never will. But what about the future Government? Mr. Ross has given us an example of the interpretation of laws in another place. What is there, Sir, to prevent the future Government from reading the section in the way in which Mr. Ross has read it? Apart from that, the speech of the Hon'ble Member in charge of the Bill took my breath away. Sir, in the Statement of Objects and Reasons with which the Bill was introduced there is not a word of anything except irrigation works, river conservation, drainage schemes, and obstruction to water-channels. Now, Sir, we are told that railways and roads constructed since the year 1857 will be included as improvement works. The Hon'ble Member now talks glibly of roads constructed for the purpose of taking the agricultural produce to the markets. Perhaps the next thing we shall hear of is that the establishment of markets is an act of improvement under this Act; and, probably, after that we shall be told that an increase in the population is also a thing which helps in selling the agricultural produce amongst a large number of the people. I do not know if these things are allowed where we are going to stop. I submit that the motion moved by Mr. Ross is an eminently reasonable one, and though, unfortunately, I have not seen eye to eye with any member on that side of the House on certain questions, I can assure him of my unqualified support to his amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, we have not been able to follow the logic of the Hon'ble Member. The Hon'ble Member says that there will be difficulty in assessing the income which accrues to a particular locality on account of a railway. Supposing the railway was constructed twenty years ago, as the *Gazettes* are there, one can always compare the prices and see what the price of crop was, say, 20 years ago. It may be that the railway was not constructed 20, 15, or, say, 6, or 7 years ago; it is quite easy to say what the effect of the railway has been on the average price of produce of the locality. So, that difficulty ought not to stand in the way of accepting this amendment.

Sir, the Hon'ble Member says that it may be that a railway or a road was constructed in order to give full benefit to the irrigation works or other works of improvement. If that is so—if the roads have been constructed after the railway is built—the construction of roads or railways follows actually the improvement that has already been effected. If that be so, the company constructing the railway will get the benefit accruing from increased activities. That is the reason why in the case of a railway it should be held that the cost of construction

of the railway should be added to the cost of improvement and a levy imposed on the locality. These improvements—the roads or the railways—are made in order to give full effect to the benefit which has already accrued on account of other activities. On account of the real object of this Bill, viz., to resuscitate the dead and dying rivers of Bengal as stated in the Statement of Objects and Reasons, there is an improvement in the profit or in the price of agricultural produce, there seems no reason why the construction of rail or roads, which follows these improvements, should be added to the cost of the improvement work and a levy imposed on the people of the locality. It is for this reason, Sir, that we think this to be a very reasonable amendment, and that nothing should be done through the back-door. The provision should not be left vague but made clear, viz., that the construction of roads or railways should not be taken as part of the original improvement and that the people of the locality should not be saddled with the cost.

Mr. SHANTI SHEKHARESWAR RAY: Sir, may I move my amendment No. 56 at this stage?

Mr. PRESIDENT: No, not at this stage.

Mr. H. P. V. TOWNEND: Sir, this is an instance where hard cases make bad law. The real reason for the way in which this definition was framed was that we should have a free hand to deal with malaria. At the bottom of this Bill there is always the question of malaria. Anyone in this House who has studied the works of Dr. Bentley knows that throughout his books and reports he has preached the doctrine that embankments were the greatest curse of Bengal. He pointed to railway embankments and road embankments, as well as embankments against floods, and said that these have been the curse of Bengal. But, he added, if one were to go to Egypt he would find embankments everywhere, but embankments so designed that they helped to keep down malaria. One of the things he always used to urge was this: when you lay out your irrigation schemes you must lay out your roads simultaneously. If you are going to deal with really decadent areas, where communications are bad, you should plan roads as part of the scheme and you should plan them in such a way that they do not interfere with the flow of the water and increase malaria. So, it is absolutely essential that when we are dealing with the really malarious districts of Bengal, we should have a free hand to lay out roads where they are necessary and where we know that they will be needed in the future. They must be in consonance with the irrigation system. I imagine that these roads would run along the banks of the canals; but that is only my personal idea. Well, when we have made these communications and when we have imposed an improvement levy in

respect of increase in the outturn, if the Act says that no profit resulting from the construction of a road should be taken into account, we shall find all the people who are assessed standing up and saying that a certain amount of the extra profit is due to the admirable roads constructed by Government at the cost of so many lakhs and that, therefore, the full amount assessed could not be realised from them. Whether they will be able to get away with this in an appeal court or not I do not know; but, as it will cause a great deal of trouble, it is much better that we should have the full power to impose the levy in the way proposed in the Bill.

Sir, there is another point, viz., that no levy can be imposed without the sanction of the Legislative Council. This provision has been accepted by the Hon'ble Member and will be incorporated in the Bill if the House will accept it. If it is accepted, it seems to me that many of the objections which have been raised by various members will be fully met, and I think it will meet the present objection to a very great extent.

As regards the argument of Mr. Ross that some Government at a future date, looking round for money, might say that when we have spent enormous sums in providing roads in the Dooars, the tea-gardens should pay retrospectively,—I confess, Sir, that such a possibility had escaped my notice. But the Hon'ble Member has informed me that he is prepared to meet this objection regarding a retrospective levy by a short-notice amendment. If the Hon'ble the President would allow me to move it, I would do so. It is that at the end of this definition No. 4 the following words be added:—

"other than any road or railway constructed before the commencement of this Act."

This, I submit, Sir, will prevent any Government, or any Legislature, of the future from imposing an improvement levy in respect of roads already constructed and in respect of the railways constructed by the Government of India. I hope that this will meet Mr. Ross's objection and that he will be prepared to withdraw his amendment. (MR. NARENDRA KUMAR BASU: No, no.)

May I move the amendment, Sir?

Mr. J. B. ROSS: Mr. President, Sir, I rise on a point of information. Has the amendment of Mr. Townend been put before the House?

Mr. PRESIDENT: No.

Mr. J. B. ROSS: Then, what is the position?

Mr. PRESIDENT: The position is that amendment will be moved later on. I have given permission to it being moved.

Mr. J. B. ROSS: I beg to submit, Sir, that Mr. Townend's amendment meets half of the objections which I have.

Mr. PRESIDENT: What about the other half?

Mr. J. B. ROSS: Sir, in view of the assurance given by the Hon'ble Member in charge that it is not the intention of Government to impose a levy on roads other than those in connection with schemes of improvement, I think I should withdraw my amendment in favour of Mr. Townend's amendment.

Mr. PRESIDENT: Is there any objection to leave being given to Mr. Ross to withdraw his amendment?

Mr. NARENDRA KUMAR BASU: Sir, I object to the withdrawal.

The question that leave be given to Mr. J. B. Ross to withdraw his amendment being put, a division was taken with the following result:—

AYES.

Afzal Nawabzada Khawaja Mohammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emadeddin.
Bakth, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Shailendra Nath.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Mr. S.
Bhaduda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J
Das, Babu Guruprasad.
Faroqui, the Hon'ble Nawab K. G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. B. N.
Gladding, Mr. D.
Haidar, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Maulvi Mahammad.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Maazam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Khan, Maulvi Tamizuddin.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray Chaudhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Rees, Mr. J. B.
Rexburgh, Mr. T. J. Y.
Ray, the Hon'ble Sir Bijay Prasad Singh.
Sachse, Mr. F. A.
Stevens, Mr. H. S. G.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ali, Maulvi Hassan.
Bal, Rai Bahadur Saral Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Mr. P.
Banerjee, Babu Jitendralal.
Barua, Baby Premlari.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Khheri Mohan.
Chaudhury, Maulvi Nurul Abser.
Fazlullah, Maulvi Mohammad.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Hussain, Nawab Musharruf, Khan Bahadur.
Maiti, Mr. R.
Mitra, Babu Saral Chandra.
Mookerjee, Mr. Syamaprasad.
Mukhopadhaya, Rai Sahib Saral Chandra.

Ojag, Babu Sak Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Raikat, Mr. Prosanna Deb.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Noconi.
Roy, Mr. Sailesware Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Nem Chandra.
Sahana, Rai Bahadur Satya Kinkar.
Samad, Maulvi Abdus.
Sen, Rai Bahadur Akshoy Kumar.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Tarafder, Maulvi Rajib Uddin.

The Ayes being 44 and the Noes 37, the motion was carried and the amendment withdrawn.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that after clause 2(*d*), the following be added, namely:—

"Provided that such notification shall not apply to the construction of an educational institution, agricultural farm, hospital or tank."

I want the House and the Government to accept this amendment so as to remove the vagueness of sub-section 4 of clause 2 relating to the definition of improvement works. Sir, the definition as it stands in the Bill is this:—

".....any work of improvement constructed by the Government, before or after the commencement of this Act, or proposed to be constructed by the Government, which the Local Government has, by notification, declared to be an improvement work for the purposes of this Act;"

Sir, just a few minutes before this Mr. Ross has pointed out to the House the wide scope of this definition. I think the scope is much wider than that stated by Mr. Ross. As the definition stands, it will be possible for the Government not only to consider any improvement work as an improvement work, but it will be possible for the Government of Bengal, without constructing any work, to try to realise tax from the people. Sir, it is stated that improvement work means work of improvement proposed to be constructed by the Government. Sir, it is only necessary for Mr. Townend to prepare a scheme in his department and consider it as a piece of improvement work, because the discretion for coming to a decision on the point is left with the Government of Bengal. Well, after he has prepared a scheme, I would like the House to realise that it is only a paper scheme, Government has not done anything, constructed nothing; they have simply drawn up a scheme and announced it. Well, the next thing in clause 3 there is, a provision that—

"Whenever in the opinion of the Local Government any improvement work has increased, or is likely to increase, the profits from the agricultural produce from any land, or to increase the outturn of such

produce, or the profits from any land not used for agricultural purposes, within any area, the Local Government may, by notification, declare its intention to impose an Improvement levy within that area."

Here, again, it is the discretion of the Government that comes to the forefront. The scheme may not actually increase the profits; it is only for the Government to decide that it is likely to increase, and on that basis, they can declare an area as notified area and proceed to levy the tax. Well, I know the Hon'ble Member in charge of the Bill will trot out his familiar argument about the sanction of the Bengal Legislative Council to projects. Well, Sir, it is not yet clear when the Bengal Legislative Council comes into the picture. The Hon'ble Member in charge of the Bill has been producing his good things one by one. To-day, he gave us to understand that in certain circumstances perhaps the construction of railways and roads may be also considered as an act of improvement and may come within the purview of this Bill. Well, I do not know whether it is the intention of the Government of Bengal to get the sanction of the Bengal Legislative Council on a paper scheme and then to proceed to levy the tax, or whether it is the intention of the Government of Bengal to complete a work and then get the sanction of the Bengal Legislative Council for the levy of the tax. Sir, I am inclined to think that there is still confusion of thought in the mind of the Hon'ble Member in this connection.

Well, Sir, there is clause 5(A) as it stands in the Report of the Select Committee. Then there is an amendment which the Hon'ble Member in charge of the Bill has given notice of. It is very difficult to gather from a study of both the sections as it stands in the Bill as reported by the Select Committee, and the amendment which the Hon'ble Member hopes to carry through this House——

Mr. PRESIDENT: Why do you bring in that now?

Mr. SHANTI SHEKHARESWAR RAY: I am showing the scope of the section.

Mr. PRESIDENT: That is not necessary for your present purpose.

Mr. SHANTI SHEKHARESWAR RAY: I was going to say that as the section stands the Government of Bengal can include any and every piece of work as an improvement work. Sir, nothing has caused so much consternation in the province among the people, amongst the *raiyats*, amongst the *zemindars* and amongst the commercial community, too, as the vagueness of this definition about improvement work. Sir, it is for the Hon'ble Member in charge of the Bill to remove such vagueness as far as possible. It is not possible to provide every safeguard against every misinterpretation of the provisions of the Bill,

but an attempt should be made to avoid any doubt as regards the intention of the Legislature in connection with such an important measure. Well, Sir, just now Mr. Townend told us that behind the back of all this legislation the important question is malaria. Well, we were under the impression that the intention of the Government of Bengal was to increase the productive capacity of the land in Bengal, and therefore there is so much fuss. But, Sir, here we hear that the all-important factor is to free the country from malaria. Well, the Hon'ble Member in charge of the Bill or in charge of the Department may take it into his head that the construction of a hospital is a part of the improvement scheme to drive out malaria, and as it happens land becomes valuable in a place where there is a hospital, school, agricultural farm, subdivisional headquarters, etc., and on that plea he may propose to demand a levy.

How can a cultivator when he is asked to pay the levy rebut the charge by saying that he has not got adequate profits on account of the establishment of the hospital? I tried to limit the scope of the Bill to improvement works carried out by the Government of Bengal, but the House decided otherwise. It may happen and I think it is also the intention of the Hon'ble Member in charge of the Bill that works carried out from the funds of the Government of India are also to be treated as improvement work. We have heard of the very great beneficent scheme that has been sanctioned by the Government of India lately about village uplift. A crore of rupees was sanctioned for the whole of India and Rs. 16 lakhs has been allotted to Bengal. We know that the Government of Bengal with the approval of the Government of India have decided to undertake a number of useful works from that grant. It is a part of this scheme of uplift of villages—I think the term "uplift" or "improvement" is more or less the same—and if works carried out with the funds of the Government of India on these heads are to be treated as improvement works and the Government of Bengal come forward to get hold of a certain amount of money from the villagers on this account, that would be a very undesirable situation. Then all the good intentions of the Government of India and of His Excellency the Viceroy will be nullified. It is time, therefore, that the situation should be cleared up: it is time to tie up the hands not only of the future Ministers but the hands of the existing Members too.

Rai Bahadur KESHAB CHANDRA BANERJI: What has that got to do with this amendment?

Mr. SHANTI SHEKHARESWAR RAY: It has got a lot to do. The sole idea behind this amendment is to clear up certain vagueness and, at any rate, if the House accepts my amendment, these beneficent works will not be liable to be treated as source of hardship to the

villagers. I do not believe in the assurances of the Hon'ble Member in charge of the Bill; these assurances mean nothing. Just to quote an instance, the Hon'ble Member in charge of the Bill on the 7th March when he brought this Bill here gave us an assurance. To-day I shall not trust to my memory, but I shall quote a relevant passage from the published Proceedings of the Bengal Legislative Council.

Mr. PRESIDENT: Has that anything to do with the amendment now before the House?

Mr. SHANTI SHEKHARESWAR RAY: Yes, I am challenging the assurances given by the Hon'ble Member.

Mr. PRESIDENT: I do not think I can allow you to reopen that matter.

Mr. SHANTI SHEKHARESWAR RAY: Sir, the Hon'ble Member may similarly stand up now and give an assurance and may thus try to win over members on his side just as he did on the last occasion.

Mr. PRESIDENT: It is for you to accept that assurance or not. I cannot allow you to quote his speech on that occasion in connection with the present amendment.

Mr. SHANTI SHEKHARESWAR RAY: Is it your ruling that I may not try to convince the House that the assurances that the Hon'ble Member may now give mean nothing?

Mr. PRESIDENT: But you are trying to reopen matters which were closed long ago.

Mr. SHANTI SHEKHARESWAR RAY: No, Sir, I was just going to challenge and suggest that assurances of the Hon'ble Member mean nothing.

Mr. PRESIDENT: I rule you out of order.

Mr. SHANTI SHEKHARESWAR RAY: In that case I have very little to say and would take my seat.

Rai Bahadur AKSHOY KUMAR SEN: I thank the Hon'ble Member for disillusioning us because we were so long labouring under an erroneous idea that the development which the Bill intends to make in Bengal was by way of irrigating or draining the decadent rivers of Bengal and works of a like nature. Now we understand from the Hon'ble Member's statement in reply to the queries of Mr. Ross and

Mr. Jitendralal Bannerjee that the definition as tabled in clause 2(4) includes and is also intended to include improvement due to the construction of roads and railways. Looking into the lines of the very definition itself which we overlooked we find that we were rather labouring under a misapprehension of facts for reasons which are very apparent. The language of the definition of any improvement work means any work of improvement constructed by the Government either before or after the commencement of this Act, or proposed to be constructed by the Government which the Local Government has by notification declared to be an improvement work for the purposes of this Act.

Now we find that there are two words here—Government and Local Government—which are two different things in the very same definition. Thereby it is clear as indeed has been expressly stated by the Hon'ble Member that any work of improvement by way of railway or roads made by the Government of India—because the word "Government" is there, and any improvement made in Bengal may be declared by the Local Government to be an improvement for the purposes of this Act. So, the intention is very, very clear because in one place we find the word "Government" and in another place the words "Local Government."

I now understand why there was so much opposition by the Hon'ble Member against the resolution or the amendment moved by my friend Maulvi Abul Quasem when he intended to change the title of the Bill——.

Mr. PRESIDENT: Why are you going into that?

Rai Bahadur AKSHOY KUMAR SEN: I am going into that in order to show why there was so much opposition because of the words "development of Bengal"——

Mr. PRESIDENT: The only point on which you are expected to speak now is whether educational institutions, agricultural farms and hospitals or tanks should be excluded.

Rai Bahadur AKSHOY KUMAR SEN: If you do not like, I will not proceed on that line.

Mr. PRESIDENT: Are you or are you not for the exclusion of these institutions? Let us hear your reasons.

Rai Bahadur AKSHOY KUMAR SEN: Yes, Sir, I am for this motion and not against it. What I was submitting is the reason why there was so much opposition in the matter of the title of the Bill.

However, my argument is this, that if an improvement levy is allowed to be made even on these educational institutions as is suggested by my friend in this amendment, then the development will be a misnomer because if these educational institutions, agricultural farms and hospitals, tanks, etc., and works like these are assessed with the improvement levy that would go a great way against the intention of the Bill. So I support the amendment moved by my friend, because there is no other amendment, though I think that some more suitable amendment should have been tabled.

Babu SATISH CHANDRA RAY CHOWDHURY: I do not think this amendment should be accepted, because it would mean complication. While interpreting the definition of an improvement work we must have in view the Preamble which states: "Whereas it is expedient to provide for the development of lands in Bengal and for that purpose to impose a levy....." that is the governing idea and that must govern all cases. Educational institutions and the like can by no stretch of imagination be brought under the category of development of land. If you introduce this clause there may be other things which may be left out. Other things such as public libraries and the library of Rai Mahasai will come in. Although we regret that the definition of the words "improvement work" is not quite clear and not very exhaustive, still I think the acceptance of this amendment will make things worse and will rather increase our apprehensions that other things not at all contemplated will come in. So I oppose the amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am glad that Mr. Satish Chandra Ray Chowdhury has made it very clear how ridiculous this amendment is. The first three things, namely, educational institutions, agricultural farms and hospitals can never be an improvement work because it cannot be shown that increased profit has resulted from them. On the other hand, we cannot exclude tanks because tanks may be constructed for the purpose of storing water and for irrigation purposes. It is one of the essential things and there is no actual definition of a tank possible; a reservoir may be a tank and therefore it is impossible to exclude a tank.

There is one other aspect of the question which I would like to emphasise and it is this, that it is difficult to understand the mentality of the proposer of this amendment. He has got no faith in the existing Council; he has got no faith in Government and he has got no faith in the future Council either. I submit that any person who has no faith in these things, his place is in the *maidan*, amidst the crowd and not in a Legislative Council. With these words I oppose the amendment.

Mr. Shanti Shekhareswar Ray's amendment was put and lost.

Mr. H. P. V. TOWNEND: Sir, I beg to move that at the end of clause 2(4) the following words be added, namely:—

"Provided that no road or railway constructed before the commencement of this Act shall be so declared."

The amendment was put and agreed to.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I beg to move that in clause 2(5), in line 2, after the words "*Calcutta Gazette*," the words "and any vernacular journal or journals" be added.

Sir, it is the usual practice to publish a notification in the *Calcutta Gazette* and, having done so, the publication becomes complete. As this Bill is intended for the development of rural areas and has nothing to do with the urban areas and as the people of the rural areas will be the only persons affected by this Bill, I propose that the publication should be made in such a way that they should know what the publication is. If you would search all the villages of Bengal you will not find a single copy of the *Calcutta Gazette* subscribed by them. So practically to the villagers the publication of a notification in a *Calcutta Gazette* will be of the same effect if it be published in any journal in America. The object of publication cannot be achieved unless the same be published in a local organ in a district. At present in every district we find that there are some journals published. Therefore, there will be no difficulty in simultaneously publishing the notification in the district local journals as well, so that the local people may know what the intention of Government is. I do not like to press this amendment if the Hon'ble Member gives an assurance that he will simultaneously publish the notification in the local journals.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to support the amendment for the simple reason that people in the mufassal have no access to the *Calcutta Gazette*. It is only the towns-people who can have a copy of the *Gazette* in order to find out what the intention of Government is. In recent years many journals in vernacular have been published in the mufassal towns, subdivisional headquarters and even in rural areas. If simultaneous publication is made, as suggested, it will enable the people who will be adversely affected by this measure to put in their appeal before the proper authorities in good time.

MUNINDRA DEB RAI MAHASAI: Sir, I wholeheartedly support the amendment moved by the Raja Bahadur of Nashipur and I hope the Hon'ble Member will accept it. In rural areas people have no access to the *Calcutta Gazette*. Government may say that it has already been notified in the *Gazette* and it is quite in order, but it is essential

that people who will be affected by the measure should know it. In every district there is a local paper, and I hope the Hon'ble Member will accept the amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, this is the usual practice as far as Government are concerned about notification in the *Calcutta Gazette*. As regards giving publicity to it under the various sections in the prescribed manner, publicity will be given and there is no reason to apprehend that any notification of any importance whatsoever, I should say that any notification will be merely published in the *Calcutta Gazette* and not in the local papers. The Raja Bahadur asks for an assurance, and I give him the assurance that that is the only official way of doing it. Therefore, I request the Raja Bahadur to withdraw his amendment. Besides, the language of his amendment is also very ambiguous. It is not clear whether it should be published in some vernacular journals or in all the journals. However, I give him the assurance that it will be given wide publicity. I hope the Raja Bahadur will withdraw his amendment.

The amendment was then, by leave of the Council, withdrawn.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I beg to move that in clause 2(5*a*), in line 2, after the words "Local Government," the following be inserted, namely:—

"in pursuance of a resolution passed by the Bengal Legislative Council."

Sir, my amendment is a very reasonable one. The main object of this insertion is to make this clause consistent with clause 5(A). In this clause we find that an improvement levy shall not be imposed in respect of any improvement work unless the Bengal Legislative Council has, by a resolution, recommended such imposition. That being the case, Sir, in order to make it consistent with clause 5(A) I suggest that this insertion be made.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the short-notice amendment which has already been circulated to the members of this House has provided for this eventuality, and in view of that I hope my friend will kindly withdraw the amendment.

The amendment was then, by leave of the Council, withdrawn.

MUNINDRA DEB RAI MAHASAI: I beg to move that in clause 2(5*a*), in line 4, after the words "improvement levy" the words "for any improvement work" be inserted.

Sir, in the Bill, "notified area" has been defined thus: "notified area" means any area in respect of which the Local Government has,

by a notification issued under sub-section (1) of section 5 declared its intention to impose an improvement levy and includes any part of such area. I think the definition should be made as clear as possible so that in future it may not be differently interpreted. The term "improvement levy" is rather too vague. Therefore to make the definition more clear, I suggest that the words "for any improvement work" be added after the words "improvement levy."

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, there are obvious difficulties in accepting this amendment, because the amendment means that the improvement levy will be imposed only for the purpose of improvement work. Maintenance cost, recurring expenditure or any other thing cannot be realised if this amendment is accepted. Therefore, I hope the hon'ble member will withdraw the amendment.

The amendment was then, by leave of the Council, withdrawn.

Kazi EMDADUL HOQUE: I beg to move that in clause 2(*6*), in line 5, for the word "considered" the words "received for consideration" be substituted.

Sir, if anybody cares to read this clause, I am afraid he will not be able to make head or tail of it. It does not convey any sense whatsoever. The clause proposes to lay down the definition of "period for objection," but it is drafted in such a way that instead of giving the definition of "period for objection" it gives rather a definition of "period for the consideration of the objection." In any Act whenever chance is given to prefer an objection, a time-limit is fixed, a certain date is named and from the date of the notification till that date persons are entitled to prefer objections, and it is only after that date that the objections will come to be heard and decided, and not before that date. So, if the clause really wants to describe the "period for objection," the Hon'ble Member will have no other alternative but to accept my amendment——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I cut short this discussion? I am prepared to accept amendment No. 73 which is considered to be the better of the two. I, therefore, hope the hon'ble member will not press this amendment.

The amendment was then, by leave of the Council, withdrawn.

Maulvi ABUL QUASEM: I beg to move that in clause 2(*6*), in line 5, for the word "considered" the word "received" be substituted.

Sir, as the Hon'ble Member has already expressed his willingness to accept this amendment, I will not make a speech.

The Hon'ble Khwaja Sir NAZIMUDDIN: Government are prepared to accept this amendment.

The amendment was then put and agreed to.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 2(*6*), in line 5, after the word "considered," the following be inserted, namely:—

"Which shall not be less than four months from the date of the publication of the notification in the *Calcutta Gazette*."

My object in moving this amendment is that the period for putting in objections has been defined in sub-clause 2(*6*) as being the time, which has already been mentioned in a notification, within which any objections and suggestions are to be received by the authorities. Now, the authorities may give only seven days' time, which, I submit, will be too short to enable people to file objections. Therefore, I suggest that there should be a minimum period, namely, four months, fixed in the Act, within which time the objections and suggestions should be received by the authorities.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am sorry I cannot accept this amendment. There may be small schemes relating to tanks and to lay down that a period of four months should be allowed for filing objections would cause a good deal of delay. Under the Land Acquisition Act only a period of 30 days is allowed for filing objections. I think, Sir, that Government should be left to fix a suitable time for this purpose.

The amendment was then put and lost.

(At this stage the Council was adjourned for 15 minutes.)

(After Adjournment.)

Mr. H. P. V. TOWNEND: Sir, with your permission, I would like to modify the amendment, which stands in my name, by omitting the words "*raiyat*" and "under-*raiyat*." The amendment in the modified form will read as follows:—

"(8) 'rent' and 'tenant' have the same meanings as in the Bengal Tenancy Act, 1885."

Sir, this is only a drafting amendment. If the amendments to be moved to certain clauses later are accepted by the Council, the words that I want to omit will not occur anywhere in the Bill and the Legislative Department advise that it would be better to omit them by this drafting amendment.

The motion was then put and agreed to.

(At this stage the President enquired whether Mr. Narendra Kumar Basu was in the Chamber.)

Mr. PRESIDENT: The House will remember that we decided to put off the consideration of amendments Nos. 36-61 till we took up the consideration of clause 5A. I think—and the Hon'ble Member in charge will agree with me—that clause 2 as a whole cannot now be put. I will, therefore, put clause 2 after we have disposed of clause 5A.

We have dealt with all the amendments relating to clause 2 except the one that I have mentioned, which will be considered along with clause 5A. But I must tell the House that only that portion of clause 2 to which the postponed amendment relates will remain open.

The House agreed with the Hon'ble the President.

Clause 3.

Mr. P. BANERJI: Sir, I beg to move that clause 3 be omitted.

Sir, I consider this clause to be not only unnecessary but at the same time mischievous.

The clause runs:—

"Whenever, in the opinion of the Local Government any improvement work has increased or is likely to increase the profits from the agricultural produce from any land or to increase the outturn of such produce, or the profits from any land not used for agricultural purposes, within any area, the Local Government may, by notification, declare its intention to impose an improvement levy within that area."

We have been definitely given to understand not only by the Hon'ble Member, but the Development Commissioner, Mr. Townend, that it is the intention of the Government of Bengal not to tax anything other than agricultural produce, the increased profits from the outturn—that was the intention of the Government of Bengal. Government has from time to time given assurance and perhaps this time the Hon'ble Member will at once stand up and give another assurance, but all this assurance is of no use because to-day he is there and tomorrow he might be placed behind us in the next Constitution That being the position, the assurances of the Hon'ble Member or of any other person do not count at all. I was also saying that this clause is absolutely mischievous. It may be in the fitness of things that the Government, as Mr. Townend has often said, is entitled to a share of the increased profits. If by the action of Government there is an increase of 50 per cent.——

Mr. PRESIDENT: But what is clause 3? Why not tell us why you want to omit it?

Mr. P. BANERJI: I am explaining the position to you, Sir. The Government according to the statement——

Mr. PRESIDENT: Why unnecessarily follow a roundabout way? Why not come straight to the objectionable features of clause 3?

Mr. P. BANERJI: The objectionable feature is that the Government may be entitled to a levy on the increased profits from the agricultural produce from any land or the increased outturn of such profit, but it is certain to charge a levy for works that are likely to increase the profit. Sir, this clause says that if it is in the opinion of the Local Government that there is a possibility or probability of any increase of profits, in that case also the Government is entitled to the levy. How will it be settled? The officers who will be employed to assess generally cannot do it for the simple reason that the Government desire that on some probabilities they will assess something. That is absurd I maintain. As you know, Sir, that officers of Government are overzealous and they want generally to find money for the exchequer, and in their overzealousness what difficulties will arise when they will try to find money. Of course, the Hon'ble Member will come forward and say that there is a provision for refund If for any reason they money is taken there is a case for refund. But you know what difficulty there is to get a refund of a single farthing when it has found its way into the Government exchequer. The landlords know to their great cost that lakhs of rupees are accumulated there and they cannot get it; there are a thousand and one difficulties. Similarly, Sir, you can imagine what will be the difficulty of the ordinary cultivator if this sort of assessment is made absolutely on probability. That is one point.

Another point is that not only is this levy to be taken from the profits of agricultural produce, from any land or increase outturn, but also the profits from any land not used for agricultural purpose. So, what is the motive behind it? Government has said, and from the house-tops has published it, that that is not the intention. But Government's intention is to find money for the cultivator and to have some share in it. That is the position Government has always taken. I am surprised to find that Government has thought over this question and sent in a list of amendments, but has not given any amendment to alter this. It has been left absolutely untouched, so the profit from any land not used for agricultural purposes will be taxed. Some members have given notice of amendments. Mr. Ross is one of them, so if this is not accepted, there will be tremendous difficulties even in the expansion of business. For instance, as Mr. Ross suggests, even the Government can levy an improvement levy on mines. Supposing a factory is started, this will come within the purview of the Government immediately because they say "profits from any land not used for agricultural purposes." This is, I consider, an all-embracing clause of the Bill, and therefore I suggest that this is absolutely redundant from one point of view, and mischievous from the other side.

Therefore, I consider that this should be deleted and the Government should not be allowed a free hand and absolutely depend on an assurance from the Hon'ble Member which certainly does not count because he may not be in that position to-morrow. With these words I commend my motion to the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am surprised at this amendment, Sir, which has been moved by Mr. Banerji. If the amendment is accepted or carried, it will mean that Government will be in a position to impose a levy without any notification whatever, and without giving the people a chance to file objections. Sir, in view of this, I do not think it is necessary for me to dilate any longer on the point that this amendment is extremely injurious.

The amendment was put and lost.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 3, in line 3, for the words "in the opinion of the Local Government," the words "the Local Government is satisfied that" be substituted.

Sir, clause 3 is one of the most important clauses of the Bill and it is something like a pivot on which the whole Bill rests, and hence I want to impose upon the Government a duty to give all possible consideration, and to make all possible enquiries before they declare their intention to impose an improvement levy within an area. Sir, once the Government declares its intention to impose a levy within an area, the people will have to file objections, and if these objections are overruled, the people will be charged with the levy. So before the Government think that any scheme will produce increased profits, they should make all possible enquiries. In the Bill the words are "in the opinion of Government." What I suggest is this, that these words be substituted by the words "that the Local Government is satisfied that." My amendment imposes a greater degree of attention or consideration on the part of the Government which the Government should take before they form an opinion about the project which is likely to produce increased profits.

With these words I commend my motion to the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, if the amendment is accepted, it will mean that Government is satisfied that such and such things will result, whereas it is at the preliminary stage that Government will notify that they think that these improvements will be of benefit, and they will call for objections and suggestions. Therefore, it is obvious that it must be in the opinion of Government that such and such an improvement is likely, and not that the Government will be satisfied after hearing objections and considering other points. Therefore, I suggest that the amendment be withdrawn.

The amendment was then, by leave of the Council, withdrawn.

Babu PREMHARI BARMA: Sir, I beg to move that in clause 3, in line 4, the words "or is likely to increase" be omitted.

Sir, the Hon'ble Member in charge of the Bill has made it clear that levy will be imposed on the net profits arising out of the improvement work undertaken by the Government. But by this course Government not only proposes to impose a levy when any improvement work has increased the profits from agricultural produce but also when the Government is of opinion that any improvement work is likely to increase the profits of any agricultural land.

Sir, this is a proposal by which the Government propose to impose levy on mere possibilities. This is really strange that taxation can be imposed on the mere chance of future possibilities of greater outturn and not on actual outturn of profits. If my amendment is not carried or accepted, the result will be that whenever any work for the purpose of improving the fertility of any particular area has been done and before actually seeing whether such work purported to be an improvement work has actually increased the outturn of agricultural products or not, the Government will be at liberty to impose the necessary levy if it only declares that the Government is satisfied that the work is likely to increase the profits from the agricultural produce. Sir, this provision is quite contrary to the announcement made by the Hon'ble Member in charge of the Bill that Government will impose levy only on the net increased profits arising out of the improvement work done.

Sir, I have not as yet heard that any kind of tax or levy has ever been imposed in any country on mere possibilities of income of profits.

Sir, it is regrettable that the Bengal Government proposes to carry on the administration on a commercial basis. It should not be the motive of any Government to do anything for the benefit of the country it governs with a view to make profits like business people. It is the bounden duty of every Government to improve the condition of the people economically, socially, spiritually and in all other respects.

Sir, so long the Government of Bengal has practically done nothing to improve the fertility of the agricultural lands of Bengal. Though at long last the Government has been kind enough to come forward with a scheme for the purpose of improving the lands of Bengal, it has not come forward with a disinterested motive but with a motive for a permanent bargain to be made out of the profits of the half-starved and half-naked poor agriculturists. And this bargain the Government not only proposes to make out of the actual profits of the poor agriculturists but also of the profits which the poor agriculturists may make in future. With these few words I commend my motion to the acceptance of the House.

Babu HEM CHANDRA ROY CHOUDHURI: I rise to oppose the amendment. As has been pointed out by the Hon'ble Member in charge

of the Bill, this clause refers to a preliminary stage and implies that when the Government form an opinion that any scheme is likely to produce increased profits then Government will declare their intention to impose a levy and after that the people who will be affected thereby will have sufficient time to file objections. After hearing the objections if the Government be satisfied that the scheme will be successful then and then only will they declare the area to be a notified area. Hence, by this clause Government do not propose to impose a levy. This clause only implies that Government will declare their intention to impose a levy, giving ample opportunity to the people affected to put in their representations. Hence, the apprehension of the hon'ble mover that Government are going to impose a levy on the supposed profits from an area is groundless.

The Hon'ble Khwaja Sir NAZIMUDDIN: Babu Hem Chandra Roy Choudhuri has already explained the difficulty of Government in accepting this amendment. I may, however, add this to clear up the misapprehension that exists in the mind of the mover, that the levy will only be imposed and realised when actual profits have been made. This is only the first stage before taking up construction work; if Government think that a certain area will be benefited if certain improvement works are done there, they will notify that area and they will hear objections, and later on after hearing the objections if that work is taken up with the approval of the Legislative Council then and then only can the question of levy come in. If this amendment is accepted, it will mean that Government will have to take up a work and then later on they may come to the Council for a levy if that scheme is a success. Therefore, it will mean that it will never be possible to take up any speculative scheme whatsoever. No one can be sure whether a scheme is going to be a success or not, but the question of levy does not come in at all because no levy can be realised unless the people have actually received a benefit. In view of this fact, I hope the hon'ble member will kindly withdraw his amendment.

The amendment was put and lost.

SHORT-NOTICE AMENDMENT.

Mr. S. M. BOSE: May I move a short-notice amendment that in clause 3, line 5, the word "agricultural" be omitted and after the words "from any" the word "agricultural" be inserted?

The effect of this will be that it will read as follows:—

"increase the profits from the produce from any agricultural land or, etc."

This is consequential on an amendment already accepted by the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: I accept the amendment, Sir.

Mr. NARENDRA KUMAR BASU: On a point of information, Sir. As I understand it, the Government have tabled amendments to delete clause 9 and the following clauses. Having regard to that, is it any use having all these words in these clauses?

Mr. H. P. V. TOWNEND: We expected some members to move this motion, but in case they did not, both the Hon'ble Member and myself have given notice of similar amendments. If that amendment is accepted, we leave out clause 9.

Mr. PRESIDENT: Mr. Basu, what was your point of information?

Mr. NARENDRA KUMAR BASU: It is this, Sir. Government have tabled amendments to delete clause 9 and other clauses. Having regard to that, is it any use retaining these words here? They are merely surplusage.

Mr. PRESIDENT: I know that, but why do you anticipate the result?

Mr. NARENDRA KUMAR BASU: I only wanted information with regard to Government's intention.

The Hon'ble Khwaja Sir NAZIMUDDIN: We have given notice of a short-notice amendment and we intend to move that. I accordingly beg to move that in clause 3, lines 6 and 7, the words "or the profits from any land not used for agricultural purposes" be omitted.

As we have given notice of a short-notice amendment to omit from the imposition of levy on all non-agricultural lands, this is a consequential amendment only.

Mr. NARENDRA KUMAR BASU: I rise to oppose this motion. It appears that the Hon'ble Member is doing just what you, Sir, deprecated a few moments ago, viz., trying to anticipate the verdict of the House regarding clause 9 and similar clauses. It comes to this, that if this amendment is accepted at the present moment then clauses 9 and 9 (A) and the other clauses will be *ultra vires* of the Bill and the Hon'ble Member is trying to force the hands of the House at this stage by deleting these words. I submit that, as was indicated, the proper

time for moving an amendment like this would be after the House had accepted the deletion of clause 9 and subsequent clauses. We have been told, I do not know with what authority, that the amendments of which fresh notice has been given by the Hon'ble Member and Mr. Townend are the results of conversations with a certain section of the people of the country and a certain section of members of this House. Speaking on behalf of the plebeian section, I strongly deprecate this—shall I call it a compromise or shall I call it a conclave—and I do submit that there is absolutely no reason why the better-off section of the community should be let off. There is no use disguising the fact—and I am sure I am not giving out secrets which ought not to be given out—that this mater was carefully considered in Select Committee and the Select Committee had in their report accepted these provisions as is patent to everyone who reads the report. It has been said not in this House but elsewhere that the task of assessing non-agricultural land will be a heavy one and that it may not be commensurate with the money that would come out in the form of the levy on non-agricultural lands. I am sure that that argument will not go down with the House, and I am very glad that the Hon'ble the Finance Member has just come in; I think that any money which might be brought into the coffers of the Government out of the non-agricultural lands, be it ever so small, I submit that the money should be taken. I do not think the levy upon the non-agricultural lands would really be small. If the promises held out by this Bill succeed, if the Burdwan and the Presidency Divisions and Central Bengal as also other parts of Bengal again blossom forth into regions of plenty and prosperity, I see no reason why non-agricultural lands which are now lying absolutely fallow and are not used at all, should not be converted into valuable land after these improvement operations have come into being. I see absolutely no reason why this amendment which is merely intended to be in the interest of a very small class of people, namely, the landholders of Bengal (MR. SHANTI SHEKHARESWAR RAY: Question, question!) why this Act should not touch this class of people. I know the landlords will question this observation, but I do say as I have already said—and I am now speaking on behalf of the plebeian section of the public of Bengal—I do say that it will not be to the interest of anyone but the landlords, and I for one see no reason why this clause should he omitted and why the words should be omitted from the Bill as it now stands. It may be that according to the present computation the yield from non-agricultural lands will be small, but who can say that in course of time the yield from this source will not be a tremendous asset to the Government? Why should Government barter away its rights to charge a levy on non-agricultural lands because of closed door conferences and conversations? I submit there is absolutely no reason why this provision should not be in the Bill. It is up to Government not to assess in a particular scheme where the yield promises to be

small, but if there is a scheme where the yield from non-agricultural lands promises to be heavy, I do not see any reason why Government should not charge a levy upon the non-agricultural lands altogether. It may be that on account of the improvement done by Government lands which are now capable of giving any return may be found to be an ideal site for a mill or a factory and the landlord, I am sure, will charge a big *salami* for the land. In that case why should the landlord be allowed to pocket the whole amount, the amount which has been made possible for him to earn by the improvements made by Government, that is to say, made by the contributions of the people of the province. I submit, Sir, it is absolutely iniquitous why these lands should be outside the scope of the Bill, and as the Hon'ble Member has given us no reason, I hope the House will not accept this amendment.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I am sorry that Mr. Narendra Kumar Basu has cast a reflection on us the landlords. He said that the landlords would be benefited if this amendment, viz., that non-agricultural lands be omitted from the clause, were accepted. He has practically no idea of the land system in Bengal. These lands are part and parcel of a holding. There are few landlords who keep non-agricultural lands for their own benefit. If there is any benefit from these lands it is derived by the tenants and not by the landlords. Without knowing the actual state of affairs to cast a reflection on the landlords is, I am sorry to say, not fair. It was not within the purview of this Bill to include non-agricultural lands when introduced. These lands, as I have already said, are part and parcel of the cultivating lands, because the tenants grow some vegetables, etc., on them for their own consumption. With these words I fully support the amendment.

Mr. S. M. BOSE: Sir, I am really surprised at Mr. Narendra Kumar Basu's opposition to this amendment. I come from the same class as he—the plebeians. But I support this amendment. Where was Mr. Narendra Kumar Basu when the Hon'ble Member moved his amendment to clause 2 (*a1*)? His amendment was that agricultural lands would not include fruit-gardens, orchards or homestead lands. The proper time for Mr. Basu to oppose should have been when the Hon'ble Member moved this amendment. But he has accepted it. I am sorry that he has dragged in the poor landlords and *zemindars*. As the Bill stood originally, a man growing bananas or potatoes on his land would have been liable to be taxed, and it is in the interest of the holders of homestead lands which are non-agricultural lands that this amendment has been suggested, and I submit that it is no use trying to wave a red flag and accuse the *zemindars*. I support the amendment.

Maulvi ABUL KASEM: Sir, I rise to oppose this amendment, and I do so for various reasons. In the first place, it has been said by the members of the Treasury Bench that certain amendments could not be considered because they had been put in at the last moment. Mr. Townend said only yesterday that certain amendments could not be considered because they were put forward at the last moment. Sir, this amendment of the Hon'ble Member has been put forward at the last moment and, therefore, I object to it. As regards Mr. Narendra Kumar Basu's opposition, he has clearly pointed out that there is no justification or reason to exclude the landlords. The question is, as the Raja Bahadur of Nashipur has said, that except the homestead lands every tenant has got some agricultural land. No tenant can afford to keep non-agricultural lands. These are lands which may at some time, as has been pointed out by some of my friends, be benefited by the erection of mills, etc., and what is more if this Bill, as it is anticipated, will eradicate malaria, these unoccupied lands belonging to the landlords will be occupied, because, particularly in my district, when the villages which are now more or less unhealthy become healthy people do come and ask for homestead lands to build houses and in that case the *zemindar* will get a large *salami* which will be absolutely an unearned profit. In the case of agricultural lands the tenant may get a better produce, but for that they have to work, whereas in the case of the landlords it is absolutely an unearned profit. For these reasons I oppose the amendment.

Maulvi SYED MAJID BAKSH: Sir, not knowing exactly what the subject matter before the House is I would support Mr. Basu, and I think I am not without precedent. In the stormy days of the Home Rule Debate in the House of Commons sometimes during the ministry of Mr. Gladstone the Irish members would speak on matters of which they knew nothing. On an occasion like this Mr. Tim Healy began to speak on Ireland when he was reminded by the Speaker that the subject matter was the estimates on Uganda. Nothing daunted, Mr. Tim Healy began to speak about the ill-fated and oppressed island of Uganda. He excited considerable laughter and was told that Uganda was not an island. In this way I shall continue and give my support to the cause which my friends Mr. Narendra Kumar Basu and Maulvi Abul Kasem have espoused, and I oppose the amendment.

Mr. H. P. V. TOWNEND: I am sorry it has fallen to me to answer the arguments put forward here against this idea of omitting the provision for a levy on non-agricultural lands because it was a provision on which at the outset I was particularly keen. I had a bright dream of getting vast sums of money out of the people whose land was improved near Calcutta and Howrah and along the Hooghly near the riparian municipalities, in order to finance schemes elsewhere

in Bengal. This dream I regret to say broke up, if I may use these words, as soon as I examined the results of the drafting by the Select Committee in Darjeeling. The rules do not allow me to say anything about the discussion in the Select Committee; but it is obvious, from the fact that the changes have been made in the Bill, that a strong body of opinion in the Select Committee was against the clauses as they originally stood and in favour of the changes in the Bill as it now stands. I must say that the members of the Select Committee who are now suspecting iniquitous practices on the part of the Government because they are prepared to give up this part of the Bill,—these members must share the blame because I was compelled to tell the Hon'ble Member, before there was any question of discussion or so-called compromise, that the clauses as they stood after the changes were made would be absolutely unworkable and there was no hope of getting anything out of anybody under them. I proposed that we should make them workable by putting in a lot of amendments against the recommendations of the Select Committee, but the Hon'ble Member would not have it. He refused to put in any amendments whatsoever which went against the recommendations of the Select Committee. It is true that we have since put in amendments against the recommendations of the Select Committee, but we put in none such until we found that there was a strong body of opinion in the House in favour of the changes. The amendments of which we gave notice in the ordinary way were all drafting amendments, and the Hon'ble Member refused to consider any amendment of substance. I put forward to him the view that in order to make this clause workable we would have to go back on what has been said in the Select Committee and he flatly refused. The clauses were thus useless. It would be easy for anyone to evade their operation by *benami* transactions or by genuine sales at an early stage and it would be hopeless to try and work them. The question then arose whether it was worth while fighting to keep these useless clauses in the Bill. We knew from beforehand that many interests—not only the rich but others—objected to these clauses. Certain members had pointed out that poor people in the mufassal might conceivably be made to pay the levy if some officer of Government could make out a case showing that although they held non-agricultural lands their profits had increased to a certain extent. There might, for instance, be a shopkeeper as has been pointed out by one member, who earned increased profits and these might perhaps be assessed just as income-tax is assessed on more prosperous people. We did not want to do that of course: but when we were negotiating with certain members of the House about the clauses which they thought were going to press unfairly on certain people, it was obvious that these clauses about non-agricultural land were unpopular. I had already advised the Hon'ble Member to drop them, and he told the people concerned that we were going to drop them; but there was no question of

a compromise and there had never been any. Clause 9 and the other clauses dealing with non-agricultural lands, are being dropped because the Hon'ble Member would not go back on the Select Committee. That is the whole secret. There is nothing iniquitous behind it. There is no conspiracy to leave money in the pockets of the landlords, and there is no risk that we shall be unable to carry out schemes owing to our not collecting this money as suspected by Mr. Narendra Kumar Basu. I was very keen in having the money out of non-agricultural lands, but the clauses simply will not work. These are the reasons why we accept the proposal to leave out non-agricultural lands and why we support the amendment now put forward.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I support the amendment moved by Mr. Townend (IRONICAL CRIES OF "Hear! hear!"). As I pointed out almost at the very early stage of the debate, this one sentence in the Bill left room for a great deal of mischief, and, perhaps, it was against the spirit of the intention of the authors of the Bill, as mentioned by Mr. Townend in his Note. I am glad, however, that the Government of Bengal have at last realized that they did not take a correct view of the matter and that they are now prepared to remove the mischief. Sir, it is not a question of doing a certain amount of favour to the landholders of Bengal, because landholders, at any rate the big *zemindars*, have very little to gain from this concession. It is objectionable from the point of view that it is against the principle of the Bill which was explained by Mr. Townend.

The amendment of the Hon'ble Khwaja Sir Nazimuddin being put, a division was taken, with the following result:—

AYES.

Arthur, Mr. S. G.
Bai, Babu Lalit Kumar.
Bai, Rai Bahadur Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basu, Babu Jatindra Nath.
Basu, Mr. S.
Bose, Mr. S. M.
Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Naji Sadi Ahmed.
Cohen, Mr. D. J.
Cooper, Mr. S. G.
Das, Babu Gurupreend.
Ghosh, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab, K. G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. R.
Gladding, Mr. D.
Guha, Babu Profulla Kumar.
Haldar, Mr. S. R.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. S. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razzar Rahman.
Lamb, Mr. T.
Lesson, Mr. G. W.
Lockhart, Mr. A. R. E.
Maiti, Mr. R.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mittra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Poddar, Mr. Ananda Mohan.
Quasem, Maulvi Abul.
Raheem, Mr. A.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Mr. K. C.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Rosburgh, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Sadhewar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.

Sadikullah, Maulvi Muhammad.
Sadiq, Mr. F. A.
Sahana, Rai Bahadur Satya Kinkar.
Sarkar, Maulvi Abdus.
Sen, Rai Bahadur Akshoy Kumar.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Rashiqpur.
Sulaiman, Maulvi Muhammad.
Steven, Mr. J. W. R.
Stevens, Mr. H. S. E.
Townend, Mr. H. P. V.
Walker, Mr. J. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

NOES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Kasem, Maulvi Abul.
Ray, Babu Nagendra Narayan.
Rout, Babu Nagendra.
Suhrawardy, Mr. H. S.
Tarafder, Maulvi Rajib Uddin.

The Ayes being 67 and the Noes 13, the motion was carried.

Clause 3.

The question that clause 3, as amended in Council, stand part of the Bill was put and agreed to.

Clause 4.

The question that clause 4 stand part of the Bill was put and agreed to.

Clause 5.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 5, line 1, for the words "period of" the words "period for" be substituted.

Sir, this is merely a drafting amendment. The expression "period for objection" has been defined in clause 2, sub-clause (*6*). It is desirable that the phrase should be uniform throughout and my amendment has only that object in view.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I am prepared to accept the amendment.

The amendment was then put and agreed to.

Maulvi ABUL QUASEM: Sir, I beg to move that in clause 5, in line 7, after the word "area" the words "or part of it" be inserted.

Sir, it is also a drafting amendment. The words in the clause—I am reading from the middle of line 6—are:—

"to impose the same in the area concerned or in a specified part thereof, whereupon the area in respect of which the Local Government has by such a notification declared its intention to impose."

Sir, I want to insert the words "or part of it" after the word "area," because the words "part thereof" have already been mentioned.

Mr. H. P. V. TOWNEND: Sir, Government have been advised that this change is not necessary. The "area in respect of which the Local Government has declared its intention" is the same thing as "the area concerned" or the "specified part thereof." The word "area" is indeterminate: the word "area" may refer to the part as well as to the whole of the "area concerned." The meaning would be quite obvious from the notification as published: so it is not necessary to repeat the words "or part of it." I, therefore, oppose the amendment.

Maulvi ABUL QUASEM: Sir, in view of the explanation given by Mr. Townend, I beg leave to withdraw the amendment.

The amendment was then, by leave of the Council, withdrawn.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to move that after clause 5(*1*) the following proviso be added, namely:—

"Provided that any land which may be in the enjoyment of a definite prescriptive or natural right of irrigation from the water of a natural river, or channel or a tank for more than 20 years at the commencement of this Act, shall not be included in any notified area."

Sir, the proviso which I beg to propose will provide any land, the benefits of which the people had enjoyed for over 20 years, should not be included in the notified area and the very proviso is quite clear and I need not speak any further on it.

Mr. H. P. V. TOWNEND: Sir, the idea behind this amendment is very attractive. But I am afraid the result would be quite contrary to that which the hon'ble member expects. The fact is that when I was examining settlement records regarding the villages in which we had the crop-cutting experiments I found to my astonishment that practically all the lands were recorded as having a right of irrigation from some tank or other or from the overflow from some river. It looks to me as if almost all the lands in Burdwan district "have enjoyed" the right of irrigation from some tank or from some river. But there is no water in the tank and only occasionally is there water in the river. In the same way we find in Central Bengal miles and miles of lands which have a right of irrigation from the rivers when they overflow: but the rivers have not overflowed (except last year) for years and years, so that the right of irrigation is a mere illusion. There is no water in the rivers, not to speak of overflow, and the right to receive water is worth nothing to the people. When there is a right of irrigation from a dead river the hon'ble member would ask us not to revive the dead river. We cannot revive the dead rivers unless we impose an improvement levy. In the same way without an improvement levy we cannot revive tanks in those parts of Birbhum and Bankura where they are needed. The hon'ble

member's amendment in fact would not allow any steps to be taken by way of reviving these areas whether by new irrigation schemes or by making new tanks. So we are compelled to oppose this amendment. It would not be in the interest of the people and it would make the Bill infructuous.

Rai Bahadur SATYA KINKAR SAHANA: I rise to support my friend Rai Mahasai. The proviso proposed by him is essentially necessary. The Development Commissioner thinks that all rivers and tanks are dead. But that is not the actual fact. It is clearly stated in the proposed proviso that the tanks and rivers from which the areas enjoyed the right of irrigation for the last 20 years, and this clearly proves that my friend was not thinking of dead tanks but tanks which though containing a smaller volume of water than before were still supplying water for irrigation. Only those lands which are so irrigated should be exempted. I think my friend is perfectly right and justified in proposing this reasonable proviso. Government should consider the situation and be pleased to accept this amendment.

The amendment was put and lost.

The question that clause 5, as amended, stand part of the Bill was put and agreed to.

Clause 5A.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, is it possible to have the proviso moved separately? We have not been able to come to any agreement yet. May I explain?

Mr. PRESIDENT: You can certainly explain, but I do not know how to take out the proviso at this stage.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I explain that?

Mr. PRESIDENT: You can do it.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that for clause 5A, the following be substituted, namely:—

"5A. No expenditure shall be incurred for the construction of any improvement work in respect of which the Local Government intends to impose an improvement levy, and no improvement levy shall be imposed in respect of any improvement work, unless the Bengal Legislative Council has, by a resolution, recommended the imposition of an improvement levy in respect of such work:

Provided that nothing in this section shall apply to the Damodar Canal (including the Eden Canal) and the Bakreswar Canal."

Sir, the short-notice amendment that was circulated did not contain the proviso which has been added here. The reason for this is that the proviso has been added in place of clause 5B and this has been done because we have been advised that the drafting will be more clear and it will enable Government, if necessary, to expend some more money on Damodar Canal to complete the scheme.

As far as 5A is concerned, it has been separately provided to give effect to the recommendation of the Select Committee and also to make clear the intention of Government, namely, that no work should be undertaken without the previous approval of the Legislative Council. It was argued that it is not enough to rely on a discussion of the question when Government come up to provide money in the budget for taking up any new scheme, but it is possible that the result of the amendment proposing to discuss the particular item in the Budget demand may not be reached and, therefore, the Council may be prevented from expressing an opinion in favour or against the proposed scheme. Therefore, in this clause it has been made clear that Government will not incur any expenditure until and unless they have taken the previous approval of the Legislative Council. It also means that it will be necessary for Government to come up to the Council at an early stage because no work of construction can be started unless it has been approved by the Council. But this will not prevent Government from taking up surveys and preliminary work of investigation. As far as the proviso is concerned, it has been provided to exclude from this the Damodar Canal area, the Eden Canal area and the Bakreswar Canal area, because it will give the Council an opportunity at the present time to discuss the question and to come to a decision whether the levy should be imposed or not. That is why the proviso has been inserted in this clause. After all, the object of this 5A is to enable the Council to express an opinion whether levy should be imposed in regard to a particular scheme and as Government think that under these three schemes the levy should be imposed, they would like the Council to give a definite opinion on this subject in favour of its imposition. That is why a proviso has been made in the case of these three schemes.

Mr. NARENDRA KUMAR BASU: Would it be in order now for me to move a short-notice amendment with your leave that the proviso be omitted?

Mr. PRESIDENT: That would be an amendment to the amendment.

Mr. NARENDRA KUMAR BASU: Yes, Sir. I rise to move that the proviso proposed to clause 5A by the Hon'ble Member be omitted. As the Hon'ble Member has stated, the object of this proviso is to give this Council an opportunity to debate upon the policy of including the

Damodar Canal, the Eden Canal and the Bakreswar Canal within the purview of this Bill. Sir, it will be in the recollection of the House that the provisions of the Bill for future improvement works are elaborate enough. They gave an opportunity to the people through the representatives in the Council as well as outside to give their views as to whether a particular improvement work should be undertaken or not and whether an improvement levy should be charged or not. But in the case of the Damodar Canal, the Eden Canal and the Bakreswar Canal, though the Hon'ble Member has been pleased to tell us that the proviso is there for the purpose of getting the opinion of the House on imposing a levy on these schemes, the Hon'ble Member has not been pleased to give us one single word of reason why after the lapse of so many years of the construction of the Eden Canal, after the lapse of so many years after the Damodar Canal was projected and after the lapse of such time when the Bakreswar Canal had been constructed, why they are to be included within the purview of the Bill. Sir, the Hon'ble Member is probably counting upon unholy alliance, I mean the compromise he has had with certain members of this House that on certain rates being accepted, there would be no challenge to the Damodar, Eden and Bakreswar Canals being subjected to an improvement levy. I submit that the question is of much greater importance than the Hon'ble Member has chosen to think. He has not even, as I have just said, condescended to give the House any reason in the case of these three schemes why the Act should be retrospective. Sir, we all know that the Damodar Canal has cost Government over a crore of rupees, an amount I do not know exactly and I am subject to correction, probably about 50 per cent over the original estimate. We do not know how much money has been usefully spent. We do not know how much money was really necessary for this construction. We do not know what profit the people of the area affected are getting from that canal. But we do know this that if this proviso is carried, the people of that area will have to bear a burden for I do not know how many years. The people, their children and their grand-children will have to bear a burden because the Government undertook this canal without consulting public opinion and because, forsooth, Government officers have been extravagant in their dealings in this matter. If it was really the intention of Government to get public opinion on this point my submission is that the procedure would not have been the procedure that has been adopted. The public were not consulted at all before the opening of the canal, nor before the construction of the canal, and now Government want to carry the measure through the House and get the money from the people. I submit that, after all, call it taxation or a levy, one ought not to make this Bill retrospective. Calling a demand from the people by a name other than taxation does not get you out of the fundamental fact that it is money taken out of their pockets. I am one of those who think that when people have

had an opportunity given them to discuss the merits or demerits of any scheme before them and they volunteer through their representatives in the Council to agree to have the money taken from their pockets in the expectation of extra profits, that is one thing, and but to say that we have constructed the Damodar Canal, the Eden Canal and the Bakreswar Canal, without consulting you, without asking for your views in the matter, and as was said by one hon'ble member of this House on the first day of the discussion, one of these works was undertaken, according to him, in the interest of one particular individual, well, of course I am not going to refer to this as I do not know anything about it—but I do say that it is perfectly clear that neither the Damodar Canal, nor the Bakreswar Canal has been constructed with the consent of the people, and now to ask them to agree to a levy upon them, upon their children and their children's children so that the extravagance of Government may be recouped out of the real or illusory profits to be derived from it, is, I submit, hardly fair. I submit there is no justification for making the Act restrospective. I submit, as I pointed out the other day, that this matter was glossed over in the Statement of Objects and Reasons. I beg to point out that the Hon'ble Member in his introductory speech did indeed say one or two words here and there about the Damodar Canal, the Eden Canal and the Bakreswar Canal, but as a matter of fact the impression we got from his speech was that the Bill was going to operate only in the future and that not one of the acts done by Government in the past would be affected by it. I submit, therefore, that this proviso is not one that can commend itself to this House, and I therefore move that the proviso be deleted.

Mr. SHANTI SHEKHARESWAR RAY: May I have your permission to move a short-notice amendment, that in clause 5AA the following words be added——

Mr. PRESIDENT: But we are now dealing with 5A.

Mr. P. BANERJI: I rise to support the motion moved by our leader, Mr. Narendra Kumar Basu, and in doing so, I will give an example of the extravagance of Government as related by Mr. Basu. I will only point out that the Daudi Canal in Daudpur in the district of Birbhum has been constructed at a cost of Rs. 25,000. The length of the canal is 12 miles and it irrigates 6,000 *bighas* of land, while the Bakreswar Canal which irrigates 30,000 *bighas* of land has been constructed at a cost of 4 lakhs. Thus, it will be noticed that the cost of this Bakreswar Canal at the rate of the former canal should have been Rs. 1,25,000; but instead of it, the cost of this canal has been Rs. 4 lakhs, that is, Rs. 2,75,000 in excess. In this way there have been extravagances committed by Government whenever they have undertaken any such

works. There has been extravagance and useless waste of money everywhere, particularly in this Department of Irrigation, and here is one further sample——

Mr. H. P. V. TOWNEND: Will the hon'ble member be good enough to repeat the name of the canal to which he referred just now?

Mr. P. BANERJI: It is Daudi in Daudpur in the district of Birbhum and has been constructed at a cost of three annas per square foot, while the Bakreswar Canal has been constructed at Re. 1-8 or Rs. 2 per square foot. This is a sample of the extravagance of Government. I support Mr. Basu's amendment, and it is in the fitness of things that all members should support it.

Maulvi ABUL QUASEM: I rise to give my support to the motion moved by Mr. Narendra Kumar Basu. Sir, I characterize the Irrigation Department's record in Bengal as a black one. So far as the three canals are concerned the public have really a grievance against the way in which public money has been spent on these projects, and what Government now propose is to realise the whole of the money from the people; of course, not all at once but over a length of years. Sir, Mr. Basu was on unassailable ground when he said that these projects were ushered into existence without the consent of the people affected. Over the expenditure the people had no say and there is a belief firmly held that a good deal of extravagance was committed by the officers in charge of the execution of these projects; and now to ask this Council to assent to the proposition that the people concerned should be made to pay the whole cost of the canals *plus* interest is to insult the intelligence of the House. So we cannot but oppose the proposal tooth and nail. Sir, money has been spent and you did not consult the people when you incurred the expenditure, and as I have said extravagance has been committed, and now you want to recover the whole amount from the people of those areas. That now seems to be the principal object of your Bill. If that is so, Sir, and if Government wanted to test the opinion of this House on this matter, they should have brought forward a special measure dealing with this specific proposal in relation to these three canals alone. Sir, I must vehemently oppose the proviso that is sought to be added and wholeheartedly support its omission.

Mr. H. P. V. TOWNEND: Mr. Basu has stated that no figures and no information have been given by the Hon'ble Member in charge of the Bill regarding any of the canals mentioned in the proviso, namely, the Eden, the Damodar and the Bakreswar Canals. He has also complained that there was only a passing reference to these canals in the

speech made by the Hon'ble Member when he introduced the Bill. Actually the Hon'ble Member gave quite a lot of figures about these canals, when he spoke on the 7th March. The report of his speech occupies a whole paragraph extending over approximately a page, and I cannot help feeling that Mr. Narendra Kumar Basu must have a somewhat faulty memory in respect of this matter. However, this is not astonishing because there were a great many more important matters with which the Hon'ble Member dealt at the same time. This question of the application of the Bill to the three canals under discussion was a comparatively minor detail in the Hon'ble Member's speech, but it is a fact that he did explain the position as regards the Bakreswar and Damodar Canals and did give figures as to the losses incurred in respect of them. Mr. Basu complains that the Hon'ble Member does not say what was the estimate for the Damodar Canal originally and what it is now. I cannot actually tell him what the estimate is now, because the figures have only recently been under revision and I have not seen the result: but in 1926 there was an estimate for Rs. 78 lakhs for this canal; the estimate was afterwards put up to Rs. 92,90,000, but the canal covered by the second estimate was not the same as the one covered by the first. There had been several changes made in the details: for instance, the position of the weir was altered: it was moved further upstream to a position which meant greater cost but greater efficiency. This made the canal longer, but it gave a greater head of water and the commanded area was greater. There is another reason why you cannot compare with the estimate of Rs. 78,00,000 the estimate of Rs. 92,90,000: there had been a rise in the price of labour, and so on, in the interval between the two. Then, after the work had been taken up, there was a dispute with the Government of India regarding the method of financing it. The final decision was that interest charges during construction should be debited against the canal: this was obviously sound but, when we compare this canal with others elsewhere, we must remember that interest charges during construction had never been debited against those canals, and that this makes our results seem worse than they really are. The effect of this—(I am speaking from memory, as I have not got the figures handy)—the effect of this was that two years ago the estimated cost of the Damodar Canal stood at about Rs. 1,12,00,000: and that is the amount for which we are taking loans from the Government of India.

Maulvi SYED MAJID BAKSH: It has come up to Rs. 1,17,00,000.

Mr. H. P. V. TOWNEND: It is not Rs. 1,17,00,000 but Rs. 1,12,00,000, for which we are taking loans. Since then construction has been going on, interest charges have been piling up and there has been loss owing to the failure of the people to take water. The water was there, but the people did not take it. I made an estimate the other

day which is not official and which has not been checked in detail but which the Irrigation and Finance Departments accepted as approximately right. According to this estimate the sum at charge at the end of this year (assuming there is no sudden change in the revenue position, owing to a sudden demand for water with a substantial increase in receipts) would be about Rs. 1,24,00,000. The losses on the canal have been calculated by me again, because the Irrigation Department goes into very complicated accounts and it is rather a difficult matter to work out these things quickly: and it seems to me, and the Finance Department experts have agreed when consulted unofficially, that the loss per year is in the region of Rs. 5,00,000. Rs. 5,00,000 is a very large sum of money to go on losing indefinitely. It must be remembered that when we pay Rs. 5,00,000 every year for this canal from provincial revenues, we are doing so not in order that every year the people in the canal area may benefit, but in order that they may benefit only in the occasional years when there is a complete failure of rain. Under the present system it is only when there is a complete failure of rain that people come forward readily to take water. That is a fact we cannot get over. They do not take water unless the rains fail completely, and by that time it is too late for them to get the full benefit of the water. Now I am not accusing the cultivators of Bengal of being exceptionally foolish, because the same thing happens in other provinces. I read in a paper by Sir William Willcocks that precisely the same thing happened in the Central Provinces: I have heard the same thing about the United Provinces, and I have seen a reference to the same tendency in the Punjab. It is a universal feature of those parts of India where the rainfall is precarious but sometimes adequate.

Then there is the question of the Bakreswar Canal. Here I think Government have been exposed to abuse which is not justified. It has been alleged here that the canal was made in the interests of one man. This is news to Government, and I do not know who that one man is. I have examined the papers connected with this canal and have discovered that the original proposal was to carry it out as a district board work. The district engineer made an estimate and drew out plans and so on; and the district board asked the Irrigation Department to help them with advice. The Irrigation Department found the plans defective and said that the whole scheme would have to be remodelled. Eventually the district board approached the Governor when he was on tour and told him the tale of their woes. This aroused his interest and he took pains to see that their scheme should be carried out. The idea had been to have the work done under Act VI of 1920 by the district board. But when the cost was calculated, and when the possible revenue from the canal was calculated, it was found that there was no hope of the loan and maintenance charges on the canal being met by the district board. The credit of a district board as compared with that

of a Government is not particularly good and it has to pay higher interest on loans: so the proposal was put forward by the then Secretary of the Irrigation Department that as a compassionate measure Government should take up the work, because they could borrow cheaply and there would thus be a prospect of the receipts meeting the cost. This proposal was accepted by Government and the work was entrusted to the Irrigation Department—not in the hope that it would make a profit for Government but because it would be for the benefit of the people. Then when the engineers came to do the work, they found hard rock which had to be cut through, and therefore there was an increase in the cost. An excess over estimates in this sort of work is nothing extraordinary: it is frequent all over the world. There was an article the other day in the *Times* which contained the remark that whenever there was any estimate of this sort, even by an expert administrator on the basis of an expert engineer's figures, it was safer to take 50 per cent. extra in considering its prospects from the administrative point of view. The writer of the article was, I think, Sir Josiah Stamp whose opinion is authoritative; and he was referring to the excess of actuals over estimates in America where they are supposed to have efficient engineers. When this can be said of America, it is no wonder that, when the Bengal Irrigation Department deals with works of a kind which they have not dealt with before, the estimate is exceeded.

Regarding the loss in working the Bakreswar Canal there is the same story as for the Damodar Canal. When people got the canal they did not want to pay for the water and did not take it. It was not that the canal water did not bring an increase in the yield, but there were fairly good crops without it. I have been looking at the crop-cutting figures for the past three years: and I find that they show yields of 22 maunds per acre from the non-irrigated land. Twenty-two maunds is far more than the average of the district as shown by the Settlement Department's figures: but there were exceptionally favourable rains during the years in question. Last year, when there was the drought in Western Bengal, the benefit to be derived from the canal became obvious. I saw a remark in the diary of an engineer, who had gone there on tour, that after passing through a desert he suddenly came upon "the soothing sight of a vast expanse of green paddy" near Bakreswar. The people who did take water from the Bakreswar Canal got a bumper crop that year. I had a report from the Magistrate that they got over 40 maunds per acre: this was probably green weight, but it is safe to say that the yield was in the region of 35 maunds per acre. It is alleged that all this was for the benefit of one man: but I have shown that it was for the benefit of the district. The canal could not have benefited even one man, if it had not been a success: and if it benefited that one man, it must have been because his tenants had benefited. That means that as an irrigation work, within its limits, the Bakreswar Canal was a success. So, from the

point of view of Government there is nothing to be ashamed of as regards the Bakreswar Canal; and there is no reason why when people can get a bumper crop by taking the canal water they should not have to pay a reasonable amount.

As regards the Eden Canal there has been a lot of abuse thrown at the Government. The Eden Canal was not built as an irrigation canal at all: there was no idea of commanding the high land from it. It was constructed to give fresh and good water to the people as a sanitary measure, and if you read through the old reports you will find that from this point of view it was a tremendous success and that there was a diminution of disease after its construction. Then people took to using its water for irrigation purposes; Government tried to stop this but without effect. Finally, Government said that if people insisted on taking water from the canal for irrigation purposes they must pay for it: and a nominal rate was fixed which was never intended to pay the cost of providing the water. The other day Mr P. Banerji said that the Eden Canal area is malarious. That is true as will be found from Dr. Bentley's works. He explains why the area is malarious: it is because of the method on which irrigation is worked there. It is patchy and intermittent irrigation, which favours the breeding of mosquitoes. Government wanted to improve the Eden Canal by providing a full supply, running channels along the high lands and letting the water down on all the lands in the area, so that the irrigation would not be patchy but all the lands would be irrigated and malaria eradicated. The necessary works have not been constructed yet: they were not even included in the estimates of the Damodar Canal. But water is to be provided for the Eden Canal from the Damodar Canal. It will be brought down from the Rondia Weir, and this will give an unfailing supply, so long as there is water in the Damodar river. If the rains fail up-country, that is an act of God; and then there is no water in the Damodar river or in the Damodar Canal. This year we have been attacked because there was no water in the canal at the beginning of the irrigation season. We usually anticipate starting irrigation on July 15th. On that date this year there was something like 12 cusecs of water going down the Damodar at the Weir; but a week later there were some 3,000 cusecs and we could have supplied water to the whole area if the cultivators had wanted to take it. A week's delay would have made no difference, to speak of, in the yield. Last year the people did not take water as early as only a week late, but the crops were magnificent none the less. The crop-cutting experiments showed that the land irrigated by August 7th gave an average yield of 29 maunds per acre: and those statistics included villages where the distributaries were not completed and where the water had to be led long distances across country. Now, experiment made last year by the Agricultural Department proved that the silt is carried by the water only one mile or so across country,

and so when you send the water two miles across country, the second mile does not actually get silt. This happened in Dignagar village: and even including the figures for this village the average was 29 maunds. The Damodar Canal is a success. The House has probably forgotten that in a previous debate I quoted remarks from various officers who said that last year the people in the irrigated area were unable to store the produce in their homesteads because there was no room for it there: they had to store part of it out in the fields; they had never had such crops as they got last year. It can be said that the Eden Canal as an irrigation work has not been good since the channels silted up: but no one can say that the Bakreswar Canal as an irrigation work has failed. It is not a perfect scheme: there may be years when there will be no water in the Bakreswar river and no water in the canal; but that is because the Bakreswar river is so small. If the Bill goes through and if we take up the Mor scheme we hope to be able to bring water across into these small rivers—into the Ajoy even—in years of drought, so that the supply will not fail in any year.

We are criticised for applying the Bill to existing schemes: but what would have been the position otherwise? When I first put forward the idea of this method of financing the revival of Bengal on the lines proposed by Dr. Bentley, the immediate reply was that the Damodar and Bakreswar schemes were financially a failure and that therefore no new schemes could possibly be considered. It stands to reason that no Government can consider projects for irrigation works which are not going to pay for themselves. There is no Government in the world, and there has never been one, which has paid for irrigation works and given water free of charge to the people. It has not happened elsewhere in India or in America or in Egypt or anywhere. It could only be done where conditions of serfdom prevail, where there is forced labour as was perhaps the case in ancient Babylon and may be the case in modern Russia for all I know. There is no good blinking the facts. Irrigation is impossible unless it finances itself: and these schemes ought to be made to pay. It is impossible to leave things as they are in connection with these three canals. As the Hon'ble Member has announced, he has considered the objections that have been put forward by the people from the Eden and Damodar Canal areas; and he is prepared to agree to the fixing of maximum limits for the areas. This ought to satisfy them. We simply cannot go forward under a great load of irrigation losses from these irrigation schemes. If I go up to the Finance Department on behalf of the Irrigation Department and put forward one of the projected schemes as bound to pay with an improvement levy, they won't accept it. It stands to reason that they won't. If the House won't accept the proposition that each scheme ought to pay for itself so far as these three schemes are concerned, why should they be expected to accept it as regards other schemes? We shall never be able to

show that the increase in outturn resulting from any other scheme will be greater than that resulting from the Damodar Canal. And there is no way of differentiating the case of the Damodar Canal from any other. There has been talk about this proposal being "retrospective" so far as the Damodar Canal is concerned. It is not. The proposal in this Bill is that an improvement levy should be imposed on new profits, on profits newly resulting from Government improvement works. It would be retrospective if it were imposed on profits which people had been making for some time. But the profits in the Damodar Canal area will be new profits. If people in that area have started making increased profits at all as a result of the canal, they have only just started making them. Nobody has sold, mortgaged or sublet his land on the basis of the increased values due to the Damodar Canal. As to the Eden Canal you will find that the people in the areas actually irrigated were happier and better off (before the Eden Canal became choked) and they sublet their lands at much higher rates than the people in neighbouring areas. That has not happened in the Damodar Canal area yet. It has not happened in the Bakreswar Canal area either.

The books about the Punjab show that where people are lightly assessed in canal areas they are not more prosperous, as one would expect, but are more heavily involved in debt. They borrow on the strength of increased land values. That, too, has not happened in the Damodar Canal area yet. It is a brand new project and so it is not unfair to impose a levy. The people who are complaining are not taking water. If they are not prepared to take water now, they would yet want to be able to take it in years of extreme scarcity: so hundreds of cultivators would be insured against a bad year at the cost of the general revenues if the improvement levy cannot be imposed. It is really not good enough. The whole of the scheme will break down completely if the Damodar Canal is not allowed to pay, at any rate, a very large part of its expenditure. We cannot escape from that fact; so I would ask the House to put aside sentiment and to face this matter squarely from a financial point of view, viz., that the people must be prepared to pay for the benefits derived from improvement works and that if they refuse to do so, Bengal will remain in its present condition.

Sir, I think I have met the arguments of Mr. Abul Kasem about waste and extravagance in regard to specific irrigation schemes; but I should like to add some general remarks. There is always a certain amount of waste in every engineering project unless it is of a type which the engineers concerned have frequently carried out before. If an engineer is doing a piece of work which he has done before, he knows precisely what are the difficulties and what steps he should take. If he is building anything brand new, the engineer will not know the ropes and will not know the easiest and cheapest way to proceed:

then there is waste. Sir, it is easy to be wise after the event. I admit that there has been a certain amount of waste in connection with the Damodar scheme which could have been avoided if we had had some previous experience. The Damodar Canal scheme was something new to our engineers. There is bound to be some waste over new projects unless the engineers concerned are accustomed to do that type of job; but we had been doing no irrigation work in Bengal. It is not, therefore, fair to blame our engineers because, like those elsewhere, they had to buy their experience. But there is this much to be said: if after the passing of this Bill we take up a series of irrigation works our engineers will learn exactly how to tackle them and every job will be cheaper than the previous one. I trust that, in view of my observations, Mr. Basu will withdraw his opposition to this amendment and that it will be carried with acclamation.

The motion being put, a division was asked for by Mr. Narendra Kumar Basu.

Mr. PRESIDENT: Before I put the motion to vote, I wish to draw the attention of the House to the short-notice amendment of the Hon'ble Member in charge—5A—to which a proviso is proposed to be added.

Mr. NARENDRA KUMAR BASU: Sir, the proviso has neither been printed nor circulated.

Mr. PRESIDENT: The proviso which is proposed to be added to the amendment to 5A runs as follows:—

"Provided that nothing in this section shall apply to the Damodar Canal (including the Eden Canal) and the Bakreswar Canal."

The question before the House is to delete the proviso.

The motion being put, a division was taken with the following result:—

AYES.

Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Babu Kishori Mohan.
Qasem, Maulvi Abul.
Ray, Mr. Shanti Shekhareswar.
Samad, Maulvi Abdus.

NOES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Bahab, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Bal, Rai Bahadur Sarat Chandra.
Bhaduri, Rai Bahadur Kshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basu, Mr. S.
Bose, Mr. S. M.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Haji Badi Ahmed.
Dutta, Mr. B. J.

Das, Babu Gurupreed.
Fazulul, the Hon'ble Nawab K. G. M., of Ratanganj.
Fraser, Mr. R. L.
Ghatarai, Mr. R. N.
Gladding, Mr. D.
Guthrie, Mr. F. G.
Haldar, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mitra, Babu Saral Chandra.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahman, Maulvi Asizur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan
Rosbergh, Mr. T. J. V.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satkarar Singh.
Roy, Mr. Saral Kumar.
Sadaullah, Maulvi Mohammad.
Sanbon, Mr. F. A.
Sen, Rai Bahadur Akshoy Kumar.
Shah, Maulvi Abdul Hamid.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Steven, Mr. J. W. R.
Stevens, Mr. H. S. E.
Tarafder, Maulvi Rajib Uddin.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. J. R.
Walker, Mr. R. L.
Whitaker, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 6 and the Noes 53, the motion was lost.

The following short-notice amendment of the Hon'ble Khwaja Sir Nazimuddin was then put and agreed to:—

"5A. No expenditure shall be incurred for the construction of any improvement work in respect of which the Local Government intends to impose an improvement levy, and no improvement levy shall be imposed in respect of any improvement work, unless the Bengal Legislative Council has, by a resolution, recommended the imposition of an improvement levy in respect of such work:

Provided that nothing in this section shall apply to the Damodar Canal (including the Eden Canal) and the Bakreswar Canal."

Mr. PRESIDENT: Order, order. The Council stands adjourned till 3 p.m. to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 7th August, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 7th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 94 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Deb Barma estate of Dinajpur.

***16. Srijut TAJ BAHADUR SINGH:** Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) the amount of allowance granted to the proprietor of the Deb Barma estate in the Dinajpur district; and

(*ii*) the salary drawn by the Manager (chief officer) of the same estate?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*i*) Rs. 2,000 per month (provisionally).

(*ii*) Rs. 200 per month.

Proscription of books written by Maulvi Syed Shiraji of Serajganj.

***17. Maulvi ABDUL HAKIM:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether any books, prose or poem, written by the late Maulvi Syed Ismail Hussain Shiraji of Serajganj, district Pabna, have been proscribed or forfeited?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) the names of such books; and

(*ii*) the reason for such proscription or forfeiture?

(*c*) Has such proscription or forfeiture order on any such books been withdrawn since then or is there any possibility of any such proscription or forfeiture order being withdrawn at present?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) Yes.

(*b*) (*i*) "Anal Prabha."

(*ii*) The book was proscribed under section 12 of the Indian Press Act (Act I of 1910), as it contained words of the nature described in section 4, sub-section (*1*) of the said Act, inasmuch as they have a tendency to bring into hatred or contempt the Government established by law in British India and to excite disaffection towards the said Government.

(*c*) No.

Sheriff of Calcutta.

***18. Mr. S. M. BOSE:** (*a*) With reference to my proposal for Honorary Sheriff for Calcutta and the Hon'ble Member's speech on the 22nd March, 1935, will the Hon'ble Member in charge of the Judicial Department be pleased to state whether his attention has been drawn to paragraph 56 of the Report of the Calcutta High Court Retrenchment Committee, 1923, and the recommendation in paragraph 155(7) of the Report, that the post of the Sheriff of Calcutta should be made an honorary one?

(*b*) What steps, if any, are the Government taking with respect to the above recommendation?

(*c*) Do the Government contemplate running the Sheriff's department as a department of the Original Side of the High Court?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state whether it will be in charge of the Master?

(*e*) What decision are the Government making regarding the Sheriff's pension fund, and the present staff in the Sheriff's office?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) Yes.

(*b*), (*c*), (*d*) and (*e*) The matter is still under consideration in consultation with the High Court and the Government of India. The position will be altered under the new constitution, and it is understood that there has been an amendment in the new Act in relation to the Sheriff of Calcutta. Any present proposals for change have to be considered in the light of the position under the new constitution.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state what remuneration he gets?

The Hon'ble Sir BROJENDRA LAL MITTER: He does not get any pay, but certain fees are realised by the Sheriff, a proportion of which is taken by the Sheriff himself, and a proportion goes towards the maintenance of his staff.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Rent receipts issued by the Court of Wards estates in Dinajpur.

13. Babu PREMHARI BARMA: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that rent receipts granted by the Deb Barma and other Court of Wards estates in the district of Dinajpur are written with pencil on carbon paper?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the same is done under the instructions of the Revenue Department?

(*c*) Does the Hon'ble Member realise that rent receipts are valuable documents of permanent character to preserve the rights and interests of the tenants?

(*d*) Is the Hon'ble Member aware that rent receipts are never granted with pencil on carbon paper by *zamindars*?

(*e*) Is the Hon'ble Member also aware that rent receipts written with pencil on carbon paper are liable to be effaced and to become illegible within a very short space of time?

(*f*) Are the Government considering the desirability of issuing instructions to write rent receipts with ink?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*), (*b*) and (*c*) Yes.

(*d*) Government have no definite information on this point.

(*e*) No, if a good indelible pencil is used.

(*f*) No.

Grand Trunk Road in Courhati.

14. Rai Bahadur SATISH CHANDRA MUKHERJI: (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to

state whether the dispute with the French Government relating to the title of that portion of the Grand Trunk Road in the district of Hooghly and adjoining the mills of Angus, Limited, has been settled?

(*b*) If the answer to (*a*) is in the affirmative, when can the work of the repairs of that portion of the Grand Trunk Road be expected?

The Hon'ble Mr. R. N. REID: (*a*) No, but an agreement has been reached regarding the repair of the road.

(*b*) At once.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(Discussion of the Bengal Development Bill, 1935, was then resumed.)

Mr. PRESIDENT: The House will remember that we finished clause 5A last night. We will now take up clause 5AA.

The Hon'ble Khwaja Sir NAZIMUDDIN: Mr. President, Sir, I beg to move the following additional clause 5AA :—

Additional clause 5AA.

"5AA. When the Local Government is satisfied that a notified area has benefited or is likely to benefit from an improvement work, it may, by notification, subject to the provisions of section 5A, impose the improvement levy in that area from such date as may be specified in the notification."

Sir, this is a purely consequential amendment in view of the modification made in clause 5A, as proposed by the Select Committee.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move, with your permission, a short notice amendment to the new clause 5AA.

I beg to move that the words "or is likely to benefit" in the new clause 5AA be omitted.

Sir, the case of the Hon'ble Member in charge of the Bill is that no levy should be imposed if there is no profit. If that be so, I do not see why he wants now to take power for imposing a levy on the supposition that a particular area is likely to benefit. The question of selecting an area for improvement work is quite different because there is

a certain amount of speculation. The Hon'ble Member has told us that the Government of Bengal may launch on certain projects, and if the projects prove to be a failure, that is, if the inhabitants of the area do not derive any increased profit from such projects, there will be no levy. But the question of imposing a levy should come only after there has been some benefit to the people concerned. There should be no provision for the imposition of a levy on the mere chance or the mere possibility of there being some benefit. It appears, therefore, that these few words would create a confusion if they are not omitted from the clause.

Sir, the Hon'ble Member in charge of the Bill has made some sacrifice by accepting the views of a section of the House in the shape of clause 5A in the form in which it was passed yesterday. But, Sir, my personal opinion is that clause 5A, as accepted by the House, will lead to a certain amount of confusion and will prove to be an impracticable proposition in future. It has not been made quite clear at what stage the sanction of the Legislative Council is to be sought. At one time, we have been told that so long as there was no profit, there would be no levy. If that be so, the Government of Bengal cannot receive the sanction of the Legislative Council for the imposition of a levy, unless they come before the Council with a distinct assurance that the scheme that they are going to put into effect is going to give some profit to the people of the locality. But from the clause, as accepted yesterday, we find that no expenditure will be incurred on any scheme before obtaining the sanction of the Legislative Council. To my mind, the whole thing appears to be absurd. If no project can be undertaken without the sanction of the Legislative Council, there is no question of speculation. But as soon as the Legislative Council give their consent to a particular levy, they are committed to it, whether the project is a success or failure. It appears, therefore, that the consent of the Council will have to be taken twice, once when the Government of Bengal launches on a scheme, and then when they intend to impose a levy. This point, however, is not very material when we are discussing this particular amendment. My intention is only to draw the attention of Government to the peculiar difficulty that will arise in view of the situation into which Government have drifted themselves on account of the compromise effected. Sir, in view of the assurance given by the Hon'ble Member that no one would be required to pay any levy unless and until there was a benefit, there appears to be no point in retaining the words "or is likely to benefit" in the clause. I, therefore, suggest that these words should be omitted.

Rai Bahadur KESHAB CHANDRA BANERJI: Mr. President, Sir, I am sorry I cannot see eye to eye with the mover of this amendment. I think he has been labouring under a wrong impression. In this connection, I would refer him to the terms of clause 5A which says,

when the Local Government is satisfied that a notified area has benefited from an improvement work, it may, by notification, impose an improvement levy in that area from such date as may be specified in the notification. Then again, it goes on to say, provided that an improvement levy shall not be imposed unless the Bengal Legislative Council has, by a resolution, recommended such imposition. It will appear, therefore, that there is no harm in retaining the words as the question will ultimately be subject to the approval of the Bengal Legislative Council.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am sorry to find that there is still some confusion in the mind of my friend, Mr. Shanti Shekhareswar Ray. It is one thing, Sir, to realise a levy, and it is another to impose a levy. No levy will be realised until a person is benefited, but there is no harm in imposing a levy on the assumption that the person is going to benefit, for if that person does not really derive any benefit, he will get a remission. If this amendment is accepted, the disadvantage will be that Government will be debarred from imposing a levy until and unless the benefit has actually accrued. The result will be that no realisation will be made at least for a year, whereas if the amendment that stands in my name is carried, as it is, it will enable Government to impose a levy as soon as the work has been constructed, as soon as water, in the case of an irrigation scheme, is given to the people for the purpose of irrigation At that time a good deal of assessments will be made and objections will also be heard. All this will take time, and by that time the people will be in a position to know whether they will be benefited or not, and afterwards if we find that they were not actually benefited, there will be no realisation of the levy. In this connection, I want to emphasize one point in case Mr. Ray's amendment is accepted, as that will mean delay in the realisation of the income by at least one year which again will mean an additional burden on the cost of the scheme. That is to say, if Government loses its entire income for one year, that income will be added on to the capital expenditure which will consequently add to the amount of the capital cost. In view of the above, and especially as it is not going to create any hardship whatsoever, as no one will be called on to pay unless he is benefited, I see no reason why this amendment should be accepted. I hope, after hearing what I have explained, the hon'ble member would kindly withdraw his amendment.

Mr. SHANTI SHEKHARESWAR RAY: I beg leave of the House to withdraw my amendment.

The short-notice amendment of Mr. Shanti Shekhareswar Ray was, by leave of the Council, withdrawn.

The question that the new clause 5AA stand part of the Bill was then put and agreed to.

Mr. PRESIDENT: The House will remember that we left out one amendment in respect of clause 2 at the request of Mr. Narendra Kumar Basu who asked for a postponement on very good grounds. It was to have been taken at this stage, but with all the changes that have since been made, I think the amendment does not arise at all.

Mr. NARENDRA KUMAR BASU: Sir, I do not want to move the amendment.

The question that clause 2, as amended, stand part of the Bill was put and agreed to.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Mr. President, Sir, with your permission, I should like to add, as a short-notice amendment, the words "or at the time of necessity" after the words "harvest time."

Mr. PRESIDENT: I have no objection. I shall allow you to make that change.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I beg to move——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Can this amendment be moved at this stage? My submission is that this amendment relates to the charging or imposing of a levy, but as far as I can understand this amendment of the Raja Bahadur, it means that no particular person shall be charged for a particular time, and as such, this must not come here, but under clause 22.

Mr. PRESIDENT: But the Raja Bahadur is suggesting this as a new clause.

Mr. NARENDRA KUMAR BASU: I admit it is a new clause but after what clause? Clause 5A deals with the question of imposition of a levy for a general scheme. This deals with the question that no levy will be charged, and there is no such thing in the Bill itself. If, however, the member means that no levy would be imposed, that would be another question altogether.

Mr. PRESIDENT: But, nevertheless, if the levy was going to be charged, it might be said that it should not be charged at the harvest time. If you think, Mr. Basu, that your point is a vital one, you may move a short-notice amendment subsequently to secure your point, but I find no ground whatsoever for not permiting the Raja Bahadur's motion to be moved at this stage.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: Sir, I beg to move that after clause 5A, the following be inserted, namely :—

"No levy would be charged if there is any deficiency during the harvest time or at the time of necessity in the supply of water to a particular notified area due to any defect in the canal or water course."

Sir, mine is a very humble amendment and there is nothing in it to be afraid of. The Hon'ble Member in charge of the Bill has already assured us that in future the water courses will be so developed as will ensure a continuous flow of water. In that case my amendment will have no practical value or effect. It will be a dead letter. But if Government cannot supply water for cultivation at the time of necessity, they cannot and should not demand rates for the non-supply. This is my suggestion and my amendment is to this effect. By way of argument, the Hon'ble Member may also say that there is a provision for granting refund and this will suffice my object. If a person does not get a sufficient supply of water during the harvest time when it is necessary, he can apply for a refund. But, Sir, it is well known to you how difficult it is to obtain a refund from Government. In order to get it, one has got to go to the court, he has got to engage a pleader, he has got to pay some court-fee, and he has got to attend the court not for a day or two but for several days before his application is sanctioned. All this means expenditure and this cost will not be paid by Government and even after the decree there will be difficulty for him to realise the refund. The next question will be as to how to receive the money. It is known to the House how difficult it is to get a refund by cheque from Government. It is quite likely that in order to get a refund a man will have to spend an amount not less than the amount of refund to be granted, and considering these facts, many persons will hesitate to apply for refund even at a great loss.

At the present time, Sir, the cultivators eagerly look for the rains on which depend the cultivation of their land, on which depend their future harvest and their prosperity. If extensive irrigation projects are carried into effect, the result will be that the peasants will not care for the rains, and will not be particularly careful, as at present, to plough just after a shower of rain. In that case, they would not care to avail themselves of the rain water for ploughing their lands, and if, at the same time, the supply of water from the canals fails when they require it for cultivation, they will be deprived of the rain water as also of the canal water. They will be loser doubly. So, they should not be charged the levy as they will not earn any extra profit on which the levy is intended to be imposed. In this connection, another point which strikes me is that Government wants to charge on the profits of the cultivators, as if Government is a partner, a paying partner, and the cultivator is a working partner. Naturally, therefore, the paying

partner should demand some portion of the profit. On the other hand, Sir, when it is a losing concern, it is just that both the partners should suffer, but in this case Government is not going to suffer. I do not want the Government to go so further as to be sufferers along with the tenant, but I ask the Government not to put additional burden on the tenant by way of a levy when the project will be a losing concern. Before I conclude, Sir, I should like to refer to the objection raised by my friend, Mr. Basu. I have no objection to substitute the word "levy" for the word "charge".

With these words, Sir, I commend my motion to the acceptance of the House.

Mr. S. M. BOSE: I agree generally with the Raja Bahadur, but may I point out that the amendment is somewhat out of place here? In clause 5A the words are "when the local Government, etc....." It may *impose* an improvement levy in that area, and the Raja Bahadur's amendment is that no levy should be *charged*. As a matter of fact we have two amendments to the same effect, Nos. 598 and 620-21.

Mr. PRESIDENT: You mean Mr. Narendra Kumar Basu's amendment?

Mr. S. M. BOSE: Yes. And further, the phrasing is somewhat incorrect, i.e., "Harvest time." Harvest time means the time when the crop is cut and reaped, and water is not required then.

Mr. NARENDRA KUMAR BASU: I do not think my friend Mr. Bose need have laboured the expression because the charge of levy is something foreign to the Bill itself, and my submission is that if this amendment were carried, it would not mean anything. On that ground I oppose the amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: The amendment was unacceptable to us, but it has been made worse by the addition of the words "at the time of necessity." To begin with, who is going to decide the time of necessity. Supposing A says it is, and B says it is not, how can water be allowed to run from the field of A to the field of B? Therefore, if this amendment be accepted, it will be impossible to work the Act. Over and above that, Government never guaranteed a full supply of water for all time to come. There may be years of exceptional drought and it may be impossible to supply water. If this is accepted it may mean that not only in one particular year the levy will not be charged, but for all time to come. Therefore, it is obvious that this amendment cannot be given effect to. I hope in view of my explanation, the Raja Bahadur will withdraw his amendment.

The amendment was put and lost.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir, after the proviso to 5A, is it necessary to have 5B?

Mr. PRESIDENT: It is there, it has got to be omitted by motion put and carried.

Mr. NARENDRA KUMAR BASU: Somebody must move it. Perhaps Mr. Bose will move it.

Mr. S. M. BOSE: I beg to move that clause 5B be omitted.

The motion was put and agreed to.

Clause 6.

Mr. P. BANERJI: I beg to move that clause 6 be omitted. My reason for doing so is very simple. There has been a change in certain matters and the Hon'ble Member wants to introduce in respect of the three canals the Damodar, the Bakreswar and Eden Canals, and fix the levy at Rs. 3-8, Rs. 4-8 and Rs. 5-8. That being the case, no estimate is now necessary. What is the use of now keeping so many officers and employing them? To make an estimate which after hearing objections Government might reject, and people who are dissatisfied with the decision of the Local Government have no right to approach the civil court. That being the case, it is not fair that while in one part of the province certain persons are enjoying lower rates, in one division in particular, Burdwan, there is a fixed rate of Rs. 3-8 to Rs. 5-8. I do not think that this invidious distinction should be made. It should be an equal rate all over. I do not know if there will be any change or difference in the silt which will be carried to the different lands. I think either the Hon'ble Member or the Development Commissioner, when the time comes, should enlighten the House on this point and remove this invidious distinction. It might be conceded that Government made certain estimates and in the case of the Eden Canal it was from annas 5 to annas 12 per acre, and only recently the charge was Rs. 2-4 per acre. In the case of the Damodar Canal the rate was Rs. 3-8. It was a lower rate 5 to 7 years ago, but that was enhanced by a circular. The Hon'ble Member knows that he was told at Burdwan that the people were aggrieved at this, and accused Government of breach of contract. The people thought this was due to the vagaries of the local officers, but were told by the Hon'ble Member that this was due to the Government, that the local officers were not responsible, he further said that Government was wrong, but they could not help it, as they wanted money. Therefore, Government were right in making an estimate, but we certainly think that Government should be fair and the rate should be equitable. We want to oppose Government claiming a half share of

the profit also. If the Government or Mr. Townend's estimate is taken, what will be the result? Supposing we say this. The price of rice is now Rs. 1-8 to Rs. 2. If the price goes up to Rs. 4-8 or Rs. 5, and if in the estimate of the Development Commissioner the production is 6 maunds per acre, Government will be entitled to a half share that is 3 maunds at this higher rate. As has been said in this House Government is bankrupt and wants money from all directions, and therefore in their dire necessity Government will naturally try to raise money somehow. Government is also trying to raise the price of food-stuffs;—this will come before us for discussion later on—and this can be done with the Rs. 15 lakhs which is being given to Bengal by the Government of India. With this assistance the Government of Bengal should try and raise the price of food-stuffs, and should not charge more than annas 5 per acre. Therefore I say that this invidious distinction should not be made in Northern Bengal; a fair and equitable rate must be fixed. In this view I consider that this clause should be done away with, there is no necessity for extra expenditure; it will be a waste of time and a source of difficulty in all directions and will cause the people unnecessary harassment.

With these words I commend my amendment to the acceptance of the House.

Mr. H. P. V. TOWNEND: It seems to me that I spend my whole time in opposing Mr. Banerji. This is most unfortunate because his arguments are so thin that it is very difficult for me to make a speech with any substance in it dealing with them. The effect of the amendment would be that the Bill will not work. Mr. Banerji does not like the proposed method of preparing the estimate of the average increase in the outturn, and therefore wants to omit the whole clause. But there are references to it in other clauses regarding which he has suggested no alterations. Those other clauses will make the Bill unworkable if this clause is omitted. Therefore it is quite apparent that this amendment is nothing more than a wrecking amendment, and I must ask the House to treat it accordingly and reject it.

Incidentally, he has brought out a number of arguments with which I must deal lest somebody in the House is misled by them. He started by asking, why have a clause for estimating the increase expected in the outturn when we are going to put in a clause fixing rates in connection with three canals. To begin with, if he had read that amendment, he would have seen that it proposes to fix maximum rates; and if anyone were not liable, under the other clauses of the Bill, to pay as much as the maximum he would not have to pay so much. I am quite certain from the various figures which I have seen in connection with crop cutting experiments that some of the villages in the Damodar canal area will not be able to pay the maximum unless, of course, there are alterations made in the distributaries which concern

them. Then again the Bill does not deal only with three canals. Mr. Banarji, having misled the House on this point, then asked why the same rates would not be fixed under our amendment for all three canals. I am not certain whether this is strictly relevant, but I would ask the permission of the President to discuss the rates in these areas, because the House showed some interest in the question. We had the Eden canal, a canal which was not made for irrigation purposes but from which the people did a certain amount of irrigation. Where they were able to irrigate regularly the average yield on the figures of the Irrigation Department's crop-cutting experiments over some 20 years ought to have been something like 27 maunds per acre. In the Damodar canal area there was no irrigation of any sort and the Irrigation Department conducted no crop-cutting experiments. So I cannot tell you offhand what was the average yield in that part of the district before the canal was made. But I am quite certain that it was no more than the average yield in Chinsura where the rainfall is better and the soil also. So we may take it that the average in that area was 18 maunds per acre of land actually transplanted. But the rainfall is so badly distributed and so scanty that there are years when the land is not transplanted at all or transplanted only in part. The deficiency on this account in Chinsura over 14 years was almost exactly 20 per cent. It should be more than that in the Damodar canal area where the rainfall in worse: but we may take it at 20 per cent.: that gives an average yield of 15 maunds for all land taking into account the area not transplanted. Thus, on the one hand, we have the Eden canal area with an average of 27 maunds per acre, and on the other the Damodar canal area with an average of 15 maunds before the Damodar canal was opened. When we are giving the full supply of water from the new Damodar canal, the outturn in the two areas ought to be the same per acre.

I have told the House before that from the crop-cutting experiments we find that with a deficient and late water-supply the average yield of the land transplanted up to the first week of August was 29 maunds for all types of soil. We have then to subtract in one case 27 maunds, in the other 15 maunds from the 29 maunds if we assume that as our figure, though we shall get better results with full irrigation. I think even Mr. Banerji will see that the difference in one case is very much smaller than in the other: two maunds against 14 in fact. It is therefore not necessary to explain that the increase in the profits in the Eden canal area would be smaller than that in the Damodar canal area. If he grants that much, I shall go on to the Bakreswar canal where the rate would be Rs. 4-8, against 5-8 for the Damodar canal area. The reason for the difference is that in one case we get water for the Damodar canal from a big river which is actually much bigger than the Nile while in flood (the Nile comes down in a more steady flood but at its highest it does not compare with the Damodar

in real flood) while the Bakreswar is a tiny little stream affected by the same rainfall as the area irrigated, so that in bad years when there is little water in the river there is no water available in the canal. The average yield in the Damodar canal area, which can expect to get water every year, being much greater than that in the Bakreswar canal area, it would be very unfair to fix the same maximum for both the areas.

After that Mr. Banerji went on to ask what was the value of framing an estimate seeing that a rate was fixed for the Eden canal area, which must have been based on an estimate of increase in the crop, and it is now proposed to increase it. He implies that an estimate was made which has proved wrong. The answer to that is that no real estimate of the increase due to canal water was ever made; the rate was proposed offhand by the local officers. I can assure Mr. Banerji of this because I have seen the papers. The attitude was "Here is a canal that was not meant for irrigation purposes but we have to fix some rate for irrigated lands: let us put it at such and such an amount." Afterwards when the Damodar canal was built the question came up as to the rate which should be charged. The Irrigation Engineers said that the people would be willing to pay only so much: if it were fixed at too high a rate the people would not take water. The Director of Agriculture was asked if the suggested rate could be justified by the figures, and he said "yes, the rate is justified by the figures." But he did not suggest any rate as suitable in view of the increased productivity, because he was not asked to do so. The only real enquiry made so far as to the rate possible for the Damodar canal area in the light of the probable increase in production was the one which I myself made when I was Secretary in the Local Self-Government Department: that estimate was confirmed by the crop-cutting experiments of last year. I do not say that my estimate was good enough to work on: it was not. The estimate which will be made under section 6 will be much more thorough than that, but it would be of the same type.

After that Mr. Banerji went into the question of the price which might be taken as the basis for fixing the rate charged. I shall not follow him in his calculations (and indeed it would be impossible to do so because they were not based on logic) because such things are dealt with in clause 7 and any remarks on the subject which may be relevant will be more fitly made in that connection. I oppose the amendment, Sir.

The question that clause 6 be omitted was then put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 6, in lines 1 and 2, for the words "an officer appointed by the Local Government" the word "Collector" be substituted.

Expecting that a large sum of money will be available as improvement levy we should not be lavish in our expenditure and we should see that every pie collected as improvement levy is fully utilised for the purpose for which the Bill is going to be enacted into law, that is for the development of lands in Bengal. Here an officer is going to be appointed simply for the purpose of making an estimate of the average increase in the outturn of agricultural produce on certain data to be given. I do not think that for that purpose an officer need be appointed and expenditure met from this fund. This work may very well be done by the Collector, who has very little work nowadays to do and whose work now principally consists in touring from place to place. I think his time may well be occupied in this work and a great deal of money saved thereby for the purpose of real improvement work. But if that is not done, and such an officer is appointed principally for this purpose, viz., of preparing an estimate as to the increase in the outturn of agricultural produce that officer will swallow up a great deal of public money that might otherwise go to the development of the dying and dead rivers and also for rural development. With these words I move my amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: I rise to oppose this amendment as the argument applies both ways. It may be possible, as has been suggested by Mr. Abdul Kasem, to take up tank irrigation schemes and we do not want an officer of the status of a Collector to find out what the yield will be for 50 acres or 60 acres of land. It will be sufficient to have an officer with settlement experience to do that work. On the other hand, for a very big scheme involving crores of rupees we want an officer of the experience and status of the Director of Land Records to do this work. I think Government's hands should not be tied on this question and they should have the authority to appoint suitable officers for this purpose. With these words I oppose the motion.

The amendment was put and lost.

Mr. S. M. BOSE: I beg to move that in clause 6(*1*), line 6, the word "agricultural" be omitted and after the words "produce from" the word "agricultural" be inserted, so that the line 6 will read as follows:—the outturn of the produce from agricultural land, etc.

This is entirely consequential on the amendment in clause 2(*a1*) by which we have omitted non-agricultural lands.

The Hon'ble Khwaja Sir NAZIMUDDIN: I accept the motion, Sir.

The amendment was put and agreed to.

Babu JATINDRA NATH BASU: I beg to move that in clause 6(*1*), in line 7, the words "or is likely to be" be omitted.

I move it because I am not certain as to what the Act actually intends as regards the exact point of time from which the levy will commence. Suppose a particular improvement work is likely to yield the profits which are anticipated and estimates begin to be prepared; it may be that the actual work in spite of the preparation of estimates or the commencement of the making of an estimate, is not taken in hand for some years. Then, is it the case that the levy will commence or will be required to be paid even before the work is actually done? That is not clearly stated anywhere in the Bill and that is why I move the amendment with a view to elicit exact information with a view to regularise the provisions of this Act, so that the question as to the exact point of time from which the levy will commence may be definitely laid down.

The Hon'ble Khwaja Sir NAZIMUDDIN: As far as the levy is concerned, it will commence as soon as Government start giving effect to the improvements that have been made by the schemes outlined and proposed to be constructed. So, I think there can be no question of imposing a levy until and unless Government are in a position to give the benefit which they promised when they took up the scheme. I think I have now made the thing perfectly clear.

Babu JATINDRA NATH BASU: In view of the explanation given by the Hon'ble Member I beg to withdraw my motion.

The amendment was then, by leave of the Council, withdrawn.

MUNINDRA DEB RAI MAHASAI: I beg to move formally that the proviso to clause 6(*1*) be omitted.

Rai Bahadur SATYA KINKAR SAHANA: Sir, I rise to support this amendment. The proviso is that the local Government may, at its discretion, direct that the estimate be made on the assumption that the land has produced or will produce some other crop. The estimate of increased outturn of agricultural produce on the assumption that some other crop has been grown on the land is, Sir, to say the least of it, more or less a guesswork and we all know that guesses like random shots often fly wide of the mark. How can it be proved unless it is explicitly stated that another crop has been produced on that land with the water of the canal? If they raise a *rabi* crop by irrigating their lands from the tanks, are the Government going to tax the poor *raiyats* for raising that *rabi* crop grown with water from the tanks? If Government are willing to retain this proviso in the Act, there should be an explicit mention of the fact that other crops raised in the land which has been irrigated with water from the canal should be taxed. With these words I support the amendment.

Mr. S. M. BOSE: Sir, I beg to support this amendment. The proviso as it stands means that a hypothetical crop may be taken to be the standard of the levy. Suppose in a certain area rice has been grown for a long time. Some expert comes and says: "You had better grow monkey-nut in this land and by that instead of getting Rs. 10 as profit you will get Rs. 50." Then if Government assess that land on the basis of monkey-nut, it would be very undesirable. I feel that this vague proviso should be entirely omitted. The actual crop grown in the area should be the standard.

Mr. NARENDRA KUMAR BASU: Sir, I beg to oppose this amendment. I submit that if this proviso is deleted, then even in the case of an agricultural tract where they are growing sugarcane and making much more profit than they could have done by growing paddy, Government is restricted to an estimate on the basis of the crop that the land grows. I submit that this proviso is a very useful one and should be retained.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I have very little to add to what has been said by Mr. Narendra Kumar Basu. It may be grossly unfair if in a particular tract of land people who are making vast profits by growing some other crop than paddy are made to pay at the rate of the paddy crop, whereas people who are growing paddy crop would be made to pay the same rate. There is no reason why the people who are getting increased profits should not be made to pay more.

I oppose the amendment.

The amendment was then put and lost.

Babu JATINDRA NATH BASU: I beg to move that for the proviso to clause 6(*1*), the following be substituted, namely:—

"Provided that the estimate shall be based only on the value of the crop actually grown on the land."

Sir, I do not move the complete deletion of the proviso to clause 6(*1*) but the substitution of the proviso as it stands in the Bill by another proviso to the effect that the estimate shall be based only on the value of the crop actually grown on the land, that is to say, the land will be assessed on the basis of the cultivation of a particular crop which it may be necessary for the cultivator to grow. For instance, a cultivator may have a small piece of land and it may be necessary for him to grow the paddy that would meet his requirements for food for a year. He should not be told that he should cultivate tobacco or some other kind of crop that he is not in the habit of ordinarily growing on his land. The cultivator in this country has that amount of intelligence that he generally grows the crop which he finds will be of profit. We

may leave it to him to decide as to the crop that he will grow; and when he has grown a particular crop, the assessment should be made on the basis of the crop actually grown and not on the assumption that some other crop may be grown but has not been actually grown.

Mr. NARENDRA KUMAR BASU: Sir, I oppose this amendment on the very simple ground that supposing a man contumaciously does not grow any crop on a particular area, and if this amendment is accepted, then unless some crop is actually grown on the land, you cannot assess it. Without going into the merits of the amendment I submit that this is unfair and it should not be accepted.

Mr. S. M. BOSE: Sir, I rise to support this amendment. When Mr. Narendra Kumar Basu and the Hon'ble Member opposed the previous amendment, they said that supposing in a particular land sugarcane is grown, why should the assessment be made on the basis of rice crop. The present amendment meets that point. If in a land sugarcane is grown, the assessment is to be made on the basis of sugarcane and not on the basis of rice or paddy. I think this amendment meets the objection raised in the case of the previous amendment. Further, I am reminded that the levy will be made on the land only when it is cultivated; fallow land or land which is unfit for cultivation will not be assessed. When a land grows a crop, of course it must grow the best crop that can be grown, and if in that land sugarcane is grown, there is no reason why it should not be assessed on that basis.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, the difficulty is that, if this amendment is accepted and if the assessment is to be made on the crop actually grown, the result will be that there will have to be an assessment very often and that will be a very costly affair. I think the best thing will be to assess on the basis of the provisions of the Bengal Tenancy Act and not on the basis of the crop actually grown. The assessment should be made on the basis of the principal food crop that the land produces, but it ought not to be on the basis of the assumption that the land can grow some other crop. I think this amendment should be accepted.

Maulvi SYED MAJID BAKSH: Sir, I think one point of view has not been looked into by the opposers of this amendment. This proviso does not mean that the officer who is to make the estimate has to go to the land every now and then to examine what crop is actually grown. In clause 6 the provision is that the estimate will be for two years at least. Only in two years will the officer go on the land. If he once goes on the land and actually measures the crop which is the basis of this enactment and then publishes an estimate, merely because there is a proviso, he will not go to the land next year again, because the

section itself says that he will not go there for the next two years. That amply safeguards against the apprehensions exhibited by some of my friends. If the actual crop grown is sugarcane, there will be no necessity of estimating on the assumption that paddy is grown; on the other hand if paddy is grown, there will not be any necessity of assuming that some other crop is grown. The Act does contemplate that before an improvement is made on the land and before the Act is brought into force the officer will have to measure the produce of the land and take an average of some years and prepare a preliminary estimate. Then after water is taken into the land as a result of this Act he will have to go over the land again and then estimate amount of crop that is actually grown. It is not a fact that he will go on the land at the first instance and make an imaginary estimate. It is not a fact that after an improvement is made on the land he will go there and make an imaginary estimate. The estimate will have to be made by him on the basis of the crop that is actually grown. So, this only ensures the practical aspect of the thing, because otherwise officers will make the estimate in a haphazard way. I therefore support the amendment.

Maulvi ABUL KASEM: Sir, I support the motion of my friend, Babu Jatindra Nath Basu. Mr. Narendra Kumar Basu has said, he has at least implied, that agriculturists will not grow crop other than the staple food crop or rice to avoid the imposition of a higher levy. As Babu Jatindra Nath Basu has said, the Bengal cultivators and agriculturists have a strong common sense and much more knowledge of agriculture than people who claim to be experts. They know what is beneficial to them, which crop will give more money and more profit and, therefore, they generally grow that crop. It should be also known to our experts that there are lands in Bengal some fit for only rice crop, some not fit for rice crop but potato, some for sugarcane and so on. There are lands which grow *rabi* crops and lands which cannot, and therefore in order to make an estimate of increased profit, which some people have said and wrongly said unearned profit, it must be known what was the actual crop grown as a result of the facilities on account of improvements brought about by Government under this Bill. With these words I support the motion of my friend Babu Jatindra Nath Basu.

Rai Bahadur SATYA KINKAR SAHANA: Mr. President, Sir, I rise to support the motion of my friend, Mr. Jatindra Nath Basu. I think that ignorance of the state of things about agriculture in our part of the country seems to be at the basis of some of the grounds advanced against this amendment. If I am allowed to say, this Development Bill, as I have understood it, is development only of the cultivation of paddy or other crops which are cultivated during the rains. If I remember aright, the Development Commissioner explicitly said that

it would not be possible for the canals to supply water for the cultivation of winter crops. If that is so, what justification can there be on the part of the Government to impose a levy upon agriculture for which the Improvement Department does nothing. Well, Sir, this Bill is called the Development Bill and it has got many by-products of development,—the by-products of the development are an apprehension in the minds of agriculturists and a sense of uneasiness and insecurity—all these things are by-products of this Bill. Already the minds of agriculturists are filled with apprehension that most probably Government would impose a levy on everything and the levy will go up to such an extent that the agriculturists shall have to go out of the country with bag and baggage. (MR. NARENDRA KUMAR BASU: Where?) To the other side of the world. This Bill will veritably be a purgatory for them. They want to live in this land but instead of that they shall have to go to the other side——

Mr. PRESIDENT: Can they go to the other side of the world with bag and baggage? (Laughter.)

Rai Bahadur SATYA KINKAR SAHANA: Undoubtedly, Sir, in that case not earthly bags and baggages can be carried (laughter). But as a Hindu I feel that some sort of baggages shall have to be carried through. Though they shall have to leave behind the load of *annamay kosha*, the load of *manomay*, *jnanamay* and other *koshes* they shall have to carry to that undiscovered country. I think therefore, Sir, that in order to remove the haziness of the provision the amendment moved by my friend, Mr. Jatindra Nath Basu, should be accepted.

Babu KISHORI MOHAN CHAUDHURI: Sir, I rise to support Mr. Basu's amendment. I submit that it should be accepted as the provisions of the Bill should not be oppressive. If we go on assessing lands upon some assumption which may be very oppressive, then it will be very difficult for the poor cultivators to make regular payments. Under the *Uthandi* system every year the crops are inspected and on the crops grown some calculation is made. I do not see any reason why the *Uthandi* system should not be introduced in this matter. I really do not like that an assessment in this case should be made for a number of years, because the price may vary and other circumstances may vary, and it is difficult to make an assessment which will be applicable for years to come. If assessment is made upon that assumption, it will surely be very oppressive and I think Government should consider that this sort of taxation should not be oppressive in any way. Whatever benefit is derived from land that may be taken into account. But I would ask Government not to try to make a

profit upon a mere assumption. On this ground I hope that Government will, if possible, make arrangements for making yearly inspection. The rent collectors will be there and as the area will not be very large, it will not be impracticable to manage the work. If that be not possible and if the assumption is made upon the calculation made based on 2, 3, or, say, 5 years' produce, as has been provided in the Act, I think the assumption should be based upon the actual produce and not upon an assumption.

Maulvi ABUL QUASEM: I rise to give my unqualified support to the amendment which has been moved by my friend Mr. Jatindra Nath Basu. One argument that has been adduced by Mr. N. K. Basu has taken my breath away. He went to the length of saying that the peasant or cultivator would be contumacious enough to let his land remain uncultivated in order to evade payment of levy to Government. I can never imagine such a state of affairs. The Bengal peasant, whatever his shortcomings or deficiencies may be, is not a fool. He has got to pay his landlord; has to pay the *mahajan*, he has got to pay the *chaukidari* tax and with all these burdens resting upon him for the mere sake of evading payment of this levy that he will leave his land uncultivated, is a supposition which I cannot understand. Sir, I submit that in a Bill of this kind we should be dealing with actualities as far as possible. If it is humanly possible we should not leave anything to speculations, possibilities or probabilities. We should be dealing with actualities so far as is humanly possible. So I think the proposal that has been made by Mr. Jatindra Nath Basu ought to commend itself not only to this side of the House but to the Government as well. Sir, I whole-heartedly support this amendment.

The Hon'ble Khawja Sir NAZIMUDDIN: Sir, there is a saying "Oh Lord, save me from my friends." It appears that the people who are trying to do some good to the cultivators are actually doing a disservice to them. What is the proposition that we have put forward? First of all, we must assume—as Mr. Abul Kasem has said—that the Bengal cultivator is not a fool. He grows the crops that pays him best; and, therefore, ordinarily, while he is being assessed on the staple food crop, if he is growing something else, it means that it pays him better. Therefore, by assessing him on the basis of staple crops it naturally follows that he is not worse off, but better off.

Now, Sir, while speaking on the previous amendment, what I said was that when Government found that not only in some individual plots but in large tracts of land on a vast scale people generally started growing some crop other than the staple food crops, it must be presumed that they had given up growing staple food crops in order to grow some other crop which was paying them much more. In that case,

Government would assess them on the particular crop which had been grown. Now, to suggest that every plot of land should be investigated in order to find out what actually has been grown for the purpose of assessment—as Mr. Roy Chaudhuri has suggested in his amendment, —will mean that every plot will have to be assessed on the crop that has actually been grown; it will become practically impossible to administer the Act. If this amendment be accepted, you will have to do the assessment every year. The usual practice would be to assess the cultivator on the staple food crop. If he is not growing the staple food crop, then it means that he is growing some other crop which pays him more than the staple food crop. Therefore, he will be better off. But if, let us assume that on account of the regular supply of water and silt a cultivator finds that it pays him more to grow vegetables for selling in markets, then in that case he is making a large profit thereby; in that particular year he may be assessed on what he realises by the sale of vegetables. Therefore, I submit, Sir, that we will not serve the best interests of the cultivators by accepting the amendment which has been moved by Mr. Jatindra Nath Basu. I hope, Sir, that in view of the explanation that I have given, Mr. Basu will withdraw his amendment.

Sir, I might once again emphasise the fact that the usual ordinary assessment will be made on the staple food crop, and if any cultivator grows anything else, it means that he is making more money than he can by growing staple food crops, as ordinarily he would not grow anything but the staple food crop.

The question being put, a division was taken with the following result:—

AYES.

Ahmed, Khan Bahadur Maulvi Emadeddin.
Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Bal, Rai Bahadur Sarat Chandra.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Babu Jatindra Nath.
Basu, Mr. S. M.
Chaudhuri, Babu Kishori Mohan.
Chokhany, Rai Bahadur Ram Dev.
Choudhury, Maulvi Nurul Absar.
Fazlullah, Maulvi Muhammad.
Haque, Kazi Emdadul.
Kasem, Maulvi Abul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Quasem, Maulvi Abul.
Rai Mahasai, Manindra Deb.
Ray, Babu Nagendra Narayan.
Ray, Mr. Santi Shekhareswar.
Rout, Babu Nagendra.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Sahana, Rai Bahadur Satya Kinkar.
Samad, Maulvi Abdus.
Sen, Rai Bahadur Jogesh Chandra.
Sinha, Raja Bahadur Bhupendra Narayan, of Rashipur.

NOES.

Ahsan, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Shailendra Nath.
Bazir Uddin, Khan Sahib Maulvi Mohammed.
Bose, Mr. Narendra Kumar.
Bose, Mr. S.
Chanda, Mr. Aparna Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nathur Rahman.
Choudhuri, Maulvi Syed Osman Haider.
Choudhury, Maulvi Abdul Ghani.
Choudhury, Haji Badi Ahmed.
Cohen, Mr. D. J.

Das, Babu Gurupreed.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., of Ratnapur.
Fawcus, Mr. L. R.
Ghatak, Mr. R. N.
Gladding, Mr. D.
Haldar, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. R.
Hussain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brajendra Lal.
Nag, Reverend S. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Ray Chowdhury, Babu Satish Chandra.
Reid, the Hon'ble Mr. R. N.
Rozbergh, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Sachse, Mr. F. A.
Sen, Rai Bahadur Akshoy Kumar.
Stevens, Mr. H. S. E.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 27 and the Noes 49 the motion was lost.

(The Council was then adjourned for 15 minutes.)

(After Adjournment.)

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in the proviso to clause 6(*1*), in the penultimate line, after the word "crop," the words "or crops" be added.

The amendment was put and agreed to.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I beg to move that in clause 6(*2*), in the last two lines, the words "whereupon the accuracy of any estimate so accepted shall not be questioned in any Court" be omitted.

It is regrettable that the tendency of legislation in modern Bengal is to shut out jurisdiction of the courts for all conceivable and unconceivable reasons. The courts, it is well recognised, have done much and very much to keep alive the faith of the people in the administration and also to keep alive the conscience of the people that they will not be victim of exploitation by the executive. Sir, in that view from the standpoint of the administration it is the existence of the courts and their decisions on all matters of vital importance of the people which ought to be very very welcome. It is rather surprising to us why in every section that has been introduced here we find that there is a persistent tendency to shut out the interference of the court altogether.

I submit that unless there are very very strong reasons to shut out the jurisdiction of the court no legislation ought to aim at it. We find in the note circulated by the Development Commissioner himself the best argument in favour of the Bill advanced is that the Bill aims at doing not more or nothing less than sections 30 and 34 of the Bengal

Tenany Act. As a result of improvements effected by the landlords the tenants may be called upon to pay enhancement either on the ground of increased productivity or on grounds of alluvial action on the soil. And we find that the whole thing, namely, the nature and extent of the improvement, the amount of increased yield from the land and what should be the enhancement or decrease—all these are left to the court to decide and the courts have to do it by taking evidence on both sides. They have to go carefully into the whole matter and then come to a decision as regards the nature and the extent of the improvement actually effected. If the Government really want to lay claim to a share of the improvement carried out, as they propose to do, as result of their own labours and investment of public funds, in that case I submit there is no reason why the salutary provisions of the Bengal Tenancy Act by which these matters are to be taken to the Court, should not be adhered to. Of course, in the first instance, in order to facilitate matters and in order to come to a speedy decision it may be necessary that executive officers in the shape of sub-deputy collectors or deputy collectors may go over to the localities and after inspection make an estimate of the profits. There is no harm in that but that must be done in the first instance only. We agree that Government cannot be expected to refer these matters to the court in the first instance. So in the first instance there is sure to be some delay but the court should be resorted to only in rare cases. Even assuming that all the officers of Government as endowed with all the wisdom on earth, even then their investigation must be more or less of a summary nature and that being so it is not really to be expected when large areas are concerned that they will go over to every bit or class of land because that might mean very great delay. So they will be more or less quick in arriving at their own conclusions about the average estimate of the crops. Ordinarily, therefore, they may be right. Ordinarily, his decision will not be questioned in any court of justice even if the doors of the court of justice are open for it cannot be expected that the poor man owning perhaps two or three plots of land will care to refer such matters to the court with all its costliness but will be content with abiding by the decision of the executive officer on the spot But if the executive officer makes a serious mistake which affects not only two or three persons but a large number of people of the locality they may think it wise and they may be forced in certain cases to the necessity of pooling their resources together and referring the matter to the arbitration or decision of a court of justice. So there is no reason why in such cases the people should not be allowed to air their grievances and have the errors rectified in the court of law. It may be said that provision has been made that the Board of Revenue will revise the estimate if necessary and after the Board of Revenue the Government itself may revise but the point is that the Commissioner is not expected and is not authorised to hear evidence and if the poor

villagers have to come to Calcutta with their witnesses it will defeat the very object Government have in view. Besides the Commissioner or the Revenue Member will give his decision on the reports made ready by the executive officers on the spot. Until and unless there are glaring errors or irregularities enough to catch the eye it is unlikely that any grievance of a not very substantial character will be attended to or rectified by the Commissioner or the Board of Revenue, far less by the Government, which stands very high up and Government have got nothing to do with the hearing, weighing and sitting of evidence. I submit that the safeguard which is provided against the errors of subordinate officers is illusory in cases of serious errors committed by the executive officers, and it will be a real hardship if the jurisdiction of the civil courts is barred for fear that delay might hamper the even flow of justice, and obstruct any work calculated to be a benefit to the locality. Therefore I think that by these expressions and words the people may well be frightened that as a matter of fact they will be at the mercy of the executive officer on the spot and will have no remedy if serious errors are committed by them. That is how the Bill when passed into law will be looked at askance by the people. If you want to co-operate with the people and if your real object is the development of the rural areas then let the people have an opportunity of understanding you; when will they co-operate together and thank you for all your labours. Why then should you mar the effect of this Bill by having a provision which I submit will not be ordinarily availed of except in rare cases as I have already said when serious mistakes have been committed by the executive officers? In view of all this I submit that it is only reasonable that the doors of the court of justice should not be shut so far as these matters which are so vital to the people of the locality are concerned. In other clauses also we find provisions to shut out the courts of justice. You should have imitated sections 30 and 34 of the Bengal Tenancy Act by which you have given the courts the power to decide such cases as the question of a fair rent, etc., as between a landlord and a tenant. In this case you are a party practically as you are practically stepping into the shoes of the landlords and going to get the profits from improved fertility. So why should you not accept the position you have given to the landlords? And as you are a party to this your attempt will be to put on as high an assessment as possible, and that renders it all the more necessary and becoming on your part to keep the doors of the court open to the people who may have a grievance against your estimate, so that they may have the first chance and go to the court of law and have the serious mistakes committed by these officers redressed. These subordinate officers will be naturally guided by their own zeal to put on a high assessment but will there be no appeal from their estimate? This will make the people lose their faith in the justice of Government and will rather help in bringing down the prestige of

Government by their own conduct, and lay you open to condemnation. Therefore it is only fair and reasonable that Government should accede to this request.

Rai Bahadur SATYA KINKAR SAHANA: I rise to oppose the amendment. I consider that the words "whereupon the accuracy of any estimate so accepted shall not be questioned in any court" form one of the most wholesome part of the Bill. I think I am justified in asserting, as I am a representative of the agriculturists, that the agriculturists have not lost their faith in the good-will or the good faith of the executive officers and we do not consider them to be so many blackguards as regards the decisions of the executive officers enough safeguards have been provided for in the Bill. I never think that these executive officers are infallible like the gods; they are fallible human beings and prone to commit mistakes, and if they commit mistakes there are sufficient safeguards for that. If the object of the Bill be not to make *harir loot* (হরির লুট) of the country to the lawyers, the words in question should by all means be retained in the clause.

Mr. NARENDRA KUMAR BASU: If I had any doubt about the cogency of the amendment moved by my friend Babu Satis Chandra Ray Chowdhury that has been effectually removed by the last speaker. A few moments ago the Hon'ble Member quoted that trite saying "save me from my friends" and I say and I say with a full sense of responsibility that if this a sample of the agriculturists' friends, then heaven save the agriculturists from them. Sir, it is no question of the infallibility or otherwise of executive officers; it is no question of the executive officers doing their best according to their own lights; but it is a question of imposing a liability upon certain classes of persons and even the Bill itself in the last line before this clause says, "thereafter the local Government may reject the estimate or may accept it with or without modification." Is not a sure criterion to show that the estimate made by the local officers and sent up to the Board of Revenue may not be always correct? Well if they may not be correct in the estimation of the Local Government, the Local Government's decision may not equally be correct in the eye of the civil court. You are imposing a liability upon the tenantry of particular districts or tracts in Bengal and I submit that the right of the person aggrieved to go to the civil court and have his liability fixed for no other consideration but what is just according to this Act, no consideration of revenue or finance or any other matter, no consideration of compensating the Government for the cost of the particular work, no consideration for trying to save Government from the results of the admitted extravagance of some of the officers who would be deputed to execute the

work, cannot be questioned. I submit the civil court will take a dispassionate view of the thing and on the basis of the principles enunciated in this Bill will come to a decision. There is absolutely no reason therefore why this amendment should not be accepted.

Maulvi NAUSHER ALI: Sir, I whole-heartedly support this amendment for the omission of one of the most objectionable features of this legislation. We have not been able to understand the anxiety on the part of Government to oust the jurisdiction of the civil court in this matter. During the debate on the motion for the consideration of this Bill in his reply the Hon'ble Member in charge made certain statements. He said that Government would be investing public money for the improvement of private lands and no levy whatsoever would be imposed unless and until it shall have been definitely ascertained that this investment has improved the productivity of soil and in fact improved the yield of the land. Now, who will be the arbitrator? Who will decide if there has been any actual improvement or there has been any actual increase in the yield? It is the Government. The question was put to the House by the Hon'ble Member in charge whether there was any businessman who would refuse to give half his profits when there had been a definite increase in the yield. Now, who will decide whether there has been an increase or not? It is the Government. Government in this case stands in the position of a creditor, a man who has advanced money, a particular party to a transaction and that very party will decide,—the creditor will decide whether the debtor has any liability or not. A curious thing indeed! And still again the jurisdiction of the civil court has got to be ousted, and why? Because Government trust their officers as infallible. But why do you take away the rights of the poor *raiyats* to challenge the decision of the Government? Government will be a party to the transaction and it is only just and fair—only reasonable—that any dispute between Government and the men whose land is improved should be decided by the civil court as in every other civil dispute between individual and individual and between an individual and the State. We are fully aware that of all the departments of Government the Irrigation Department has got the blackest record, worse than the record of the Public Works Department which has got the good appellation from the people as the public waste department. I am sure that this measure will bring in another department whose record will be blacker than the record of the Irrigation Department, and Government, after they have spent public money on schemes about the effects whereupon we have very little reason to be hopeful, will frame their estimate not according to improvement of the land but according to the calculation which will bring into the public exchequer within a certain number of years at least the money that they had spent. I have not the least doubt about that and the result will be that when there has not been the

slightest improvement in the land the poor people will be burdened with a permanent tax which they will not be able even to challenge in any court. I for myself and speaking for the poor people of Bengal can never give my support to this. I will appeal to the Hon'ble Member to consider this aspect of the question. I will appeal to him to give the poor people a chance of testing the accuracy of the Government estimate. I hope this appeal will not fall on deaf ears. As my friend, the mover of this motion, has made it clear, the poor *raiyats* will find it very difficult to fight with Government and I fail to understand the anxiety on the part of the Government still to oust the jurisdiction of the civil court. I will again appeal to the Hon'ble Member to consider whether he should take away this right of the poor cultivators. He will never be able to put this Act into operation before the Reforms come in and I am afraid it will be another dead Act in the Statute Book. I am sure that the issue of this labour—however dear to the point—will not be welcome to the people at large, with the result that very soon the child will either be altogether dead or so materially changed that the parents will not recognise it. With these words I support the motion.

Maulvi ABUL KASEM: Sir, I rise in spite of the vehement speeches that I have heard to oppose the motion of my friend. I am not an admirer of the executive officers of Government who do this sort of estimate. Examples are not few in the Income-Tax Department of the Government as well as some other departments where the enthusiasm of the subordinates which goes up even to higher officials makes them to derive or get as much money as they can. In many cases it is believed rightly or wrongly, but there is a confirmed belief that a circle officer like an income-tax officer who would get the largest amount of money for the Government treasury is credited with having done excellent work and deserving of promotion. I agree with what Maulvi Nausher Ali has said but do not agree with his conclusion, because I am nervous about this provision of allowing the poor *raiyats* to go within the precincts of the civil court. I think that after an exceptionally heavy taxation levy by the executive officers whatever is left to the *raiyats* in his possession will be spent under a banian tree in the civil court compound. One man at least in my district has once said that the greatest curse that should befall a man is that he would fall into civil court litigations. Instances are not few where civil court litigations have brought about a ruin to many ancient families. I do not look upon the decision of the executive officers as good, nor do I consider that the civil courts are any better than the Government. My opinion is that, if the Government have not considered the question of putting in a reasonable tax fixed by them per acre for the benefit they are giving, still it is no remedy to go to the civil court. My friend, the mover of the motion, has said that very few people will

dare oppose Government and go to the civil court. Even then, what is the necessity of this provision? I am nervous about the people who have no resources of having the luxury of going to the civil court, but still will be forced to go there with the bright chance of success. I am afraid their chance of success in the civil court is as little as that of their appeal to the executive officers of Government. Therefore, I think it will be the least of an evil to finish it by the executive Government and not drag the poor cultivator with a plot of land to the civil court so that those lands may not be transferred somewhere outside their jurisdiction.

Babu KHETTER MOHAN RAY: Sir, I rise to support the amendment moved by my friend, Babu Satish Chandra Ray Chowdhury. One who has gone through the Hill must have been struck with one fact that every conceivable attempt has been made to oust the jurisdiction of the civil court in connection with the works which might be done by the executive officers of Government. In this Bill we find that everything has been left to the rule-making power of the Government and the discretionary power of the executive. No principles have been formulated. Everything is left to the future Government who will frame certain rules for the guidance of their officers. Also we find from the speech of Hon'ble Member delivered yesterday that he said that these works will be done by the Agricultural and Irrigation Department officers and not by the Revenue officers who are also acquainted to a certain extent with this kind of work. Consequently they are ill-fitted to do the work of making any estimate about the imposition of the levy. There are other reasons also. It may be said that provision has been made to carry the matter to the Commissioner and also to the Member of the Board of Revenue; but it must be said that the Commissioner is not expected to deal with these cases as carefully as the civil courts. The civil courts will go through the cases carefully whenever there is any injustice done. The executive officers are not expected to go through the cases as carefully as the civil courts. Under these circumstances I think the power of the civil courts should not be ousted and should remain intact and these objectionable words "whereupon the accuracy of any estimate so accepted shall not be questioned in any Court" should be omitted. One answer against this amendment will be, as I have said in another case, that it will needlessly increase the litigation work and the improvement work will be hampered, but sufficient provision may be made so that improvement work may not suffer on that account. But I think the right of appeal to the civil courts to validate the orders passed by the executive officers should not be taken away.

With these remarks, Sir, I support the amendment of Mr. Ray Chowdhury.

Maulvi ABDUS SAMAD: Sir, I whole-heartedly support the amendment. It seems to me that it has become a fashion of late to oust the jurisdiction of the civil courts in every piece of legislation that is passed in this House. So, in this Bill also it is sought to oust the jurisdiction of the civil court as between an agriculturist and the Government. Sir, according to this Bill, practically the officer entrusted with the preparation of an estimate will be the sole authority in deciding the amount of the outturn and his decision will practically be the decision of the local Government, because he will submit his report with objections, if any, to the Board of Revenue, and the Board of Revenue with modifications, if any, will submit it to the local Government: the local Government will either accept it or may reject it or may make some modification. Now, Sir, what will be the materials for the Board of Revenue or the local Government to modify the report of the officer entrusted to prepare the report? They will have before them the objections, if any, preferred by the tenants but there will be no evidence taken on oath in support of those objections. There is nothing in this Bill to show that that officer will have the power to record evidence as is done in a regular judicial proceeding. Thus, practically the recommendation of that officer will be the final order of the local Government also. Now, Sir, it is evident that in cases coming under this Act the Government will be a party, so it means that the party will be sitting on judgment in a case in which it itself is interested. As in this case Government will be an interested party, it is highly inequitable and unjust that the tenant will not have the opportunity of representing his case in a court of justice. Maulvi Abul Kasem has said that the civil courts are a source of nuisance as they have brought ruin on many families. In his opinion litigation in Civil Courts is expensive and so it is for the benefit of the tenants that they should have no right to seek remedy in a civil court. But, Sir, the tenant will be saddled with a permanent liability and the matter will be decided once for all. It is not limited for a definite period: the levy is a permanent thing. So, in a matter which will affect a person financially, it is only just and fair that it should be decided in a civil court. Besides, I do not understand why the privileges and remedies provided in the Bengal Tenancy Act should not be provided in this Act also. In the Bengal Tenancy Act the landlord is empowered to enhance the rent and there are detailed provisions as to how that enhancement may be assessed: that is done in a civil court. Why in this case the same remedy should not be provided and embodied in the Act? For all these reasons, it is highly unjust and improper to oust the jurisdiction of the civil courts.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to support the amendment. It has been emphasised by more than one speaker in this House that this provision to oust the jurisdiction of the civil

courts means interfering with the general right of the people to have their grievances adjusted in civil courts. Unless there is any urgent necessity, no departure should be made from the existing practice. In itself such encroachment on the rights of the people should be considered as very objectionable. There is another aspect which has escaped the clauses of the Bill placed before the House up to now. I beg to draw attention of the House that what the Government propose to do is that the whole and final responsibility as regards this estimate has been taken by the local Government. Well, if that is to be challenged according to the provision of the Bill, it cannot be challenged in a court of law. The other remedy is to challenge it on the floor of the Bengal Legislative Council, because any action of the local Government is liable to be reviewed in the Legislative Council under the new constitution. In that case instead of avoiding trouble it will be an additional source of trouble. What happens is that individual personal grievances, when they are placed before a law court are never brought before the Legislative Council. People take the decision of the law court, High Court or the Privy Council, as final in connection with disputes between individuals. When you shut out a review or re-examination or an appeal according to the existing practice in a court of law, the natural result will be to turn to the Legislative Council as the appellate authority. The life of the future Minister will be made miserable if these matters are brought up before the Council. So it would not be to the interest of good Government to shut out people from taking these matters to law courts and have their grievances adjusted there. Sir, one of my friends here has pointed out that if you do not take away the jurisdiction of the law courts, it will be a good thing for the lawyers only. It will mean handing over the thing to the lawyers of the country. Lawyers do not lose by the provision of the law. It is well known that lawyers appear before local authorities, they appear before the Board of Revenue. In any case they do not lose because one who can afford to requisition the services of a lawyer in a court of law will be able to do so elsewhere. So the argument that it is only the lawyers who want law courts does not hold good. Maulvi Abul Kasem has changed his mind during the last few days. I find from the agenda that the next amendment to the one under discussion stands in his name. He suggests in it that "for the words 'whereupon the accuracy of any estimate so accepted shall not be questioned in any Court' the words 'whereupon any estimate so accepted shall be presumed to be correct' be substituted."

Well, Sir, only a few days ago at any rate he was not against leaving the jurisdiction of the law court in this connection as well as in connection with everything else. He was not in favour of ousting the jurisdiction of law courts as suggested in the Bill. I hope, Sir, in view of the difficulty, in view of the unpleasant situation that may arise in the Bengal Legislative Council in future, Government will reconsider their decision and remove this objectionable feature from the Bill.

Mr. H. V. P. TOWNEND: Sir, Mr. Ray Chowdhury has argued that this provision against which the amendment is moved would be a new departure and that very strong reasons should be given for accepting it. Another speaker, Mr. Nausher Ali, has expressed in very vehement terms the fear that this Bill will come to nothing—that nothing would be done under it. Mr. Nausher Ali, though unintentionally, has given the reason why this provision should remain in the clause. If it is omitted, it is almost certain that nothing would come of the Bill. I would ask the House, Sir, to look at the clause as it stands and see what would be the effect of allowing appeals to be made in the civil courts against a decision of the Board of Revenue or the Government. This clause lays down the procedure for a certain preliminary step,—the framing of estimates as to the increase in the outturn from various classes of land in a notified area. This step is the basis of all others. Unless Government are in a position to go forward with confidence after the framing of the estimate, it will be impossible to go forward at all. Now, Sir, the effect of allowing an appeal to a civil court would be that any one in the notified area could come forward within the period of limitation and go to a civil court and ask for a declaration that the whole estimate was wrong. Sir, I do not know what the position would be if a Munsiff declared that the estimate which was to be the basis of the whole procedure was incorrect. There would be grave uncertainty in any case and the work could not go forward; I imagine the whole procedure contemplated by the Bill would be paralysed. The position would be similar to that which arose in connection with the Magrahat scheme when a great number of civil suits were run; being unable to defend so many suits Government were forced to a compromise. It was impossible for Government, at the cost of the public revenues, to defend so many suits in the civil courts. The same thing may happen here and if the object which we hope to achieve by this Bill is worth achieving it will be necessary to face the fact that it is essential to bar access to the civil courts.

It is suggested that when we have quoted the precedent of the Bengal Tenancy Act for putting the limit of the improvement levy at 50 per cent., we ought to adopt the whole procedure of the Bengal Tenancy Act, and go to the civil courts for a declaration as to the extent of the increase. Well, it is one thing for a landlord to bring a suit against a few tenants, and another thing for Government to bring suits against thousands of cultivators in the enormous areas which we hope to tackle under this Bill. And it will be the same thing whether we have to bring suits against cultivators or cultivators have to bring suits against us. When we start a new system like this it is essential, I must submit, to utilise any procedure which has been found to work satisfactorily elsewhere. When we find that there has been working elsewhere in India over the last 80 years a system which has given satisfaction, is it not better to imitate it? That system is the method of assessing

temporary revenue. So far as the method of assessment goes we can point to it as a precedent. In temporarily settled provinces revenue is fixed on the basis of the productivity of the land by executive decision of the local Government, and it is fixed by this decision for long periods. When this is the principle regarding the fixing of land revenue in other provinces, may it not be adopted with confidence by us? In the resolution on the Land Revenue Policy of the Indian Government published in 1902 which is a standard authority for all this sort of thing there is a report from the Bombay Government about the way in which they assess temporary revenue. I am not going to read it all out, but I will give abstracts. They proceed to divide the country into groups (that is, classes) of land. They value the soil in each "according to its depth, texture, capacity for retention of moisture and other physical properties"; they take into account its "disadvantages and faults as well as special advantages." They consult the people and take note of what in their judgment is "the relative value of the soils." The groups that they select for the purpose are as far as possible "homogeneous as regards climate, rainfall, fertility and communications"; and before the Settlement Officer fixes the rates "he reviews fully every circumstance shown in the past revenue history prices, markets, values of land, vicissitudes of season and every other relevant fact indicating the incidence of the previous assessment and the economic conditions of a tract." This cannot all be done under clause 6 of the Bill, but it would have to be done under its various clauses.

That is the system which the Bombay Government in 1902 described as having been "tested and improved over 50 years." Thirty years more have passed since then; the system has now been tested for 80 years. We may say that the same system, roughly speaking, works in the Punjab and, I imagine, also in the United Provinces.

It was laid down by the Government of India in reviewing all this (and it is an accepted principle regarding revenue assessment) that "no tribunals except those in the Revenue Department have the requisite knowledge to dispose of disputes regarding land assessment."

In the Punjab the appeal is from the Settlement Officer to the Settlement Commissioner, and from the Settlement Commissioner to the Financial Commissioner. The civil courts do not intervene. In Bombay, as I have already told some of the members of this Council, in 1876 the High Court considered a suggestion that civil courts should be utilised to determine the propriety of assessments made by the Land Revenue officers—precisely the proposal just made here regarding assessments under this Bill. The Chief Justice of the Bombay High Court took a very strong line. He announced that he had no desire that civil courts "should be transformed into revenue commissioners or collectors of a superior grade." He was not going to have a civil court treated in this fashion. If you look to England you will find that in

taxation matters there is no appeal to a civil court aganist the decision of the commissioners appointed for the purpose. In certain cases, when such an appeal is made, the civil court is being used as a special commissioner. It is not then a civil court in fact but is merely a revenue tribunal set up by the executive Government.

Then we come to Bengal. In similar cases in Bengal the appeal is not to the civil court. Take Act VI of 1920, the Agricultural and Sanitary Improvement Act. Under this the appeal lies from the Collector only to the Commissioner as regards the degree of benefit. Under the Embankment Act an appeal lies to the Board of Revenue through the Commissioner. In temporarily settled Government estates under Chapter X of the Bengal Tenancy Act, the appeal lies first to the Settlement Officer, then to the Director of Land Records, and finally to the Board of Revenue.

The question of assessment of temporarily settled estates is very complicated. I do not know whether that which is proposed under the Act is more complicated, but it will probably be equally complicated. It is highly improbable that an ordinary Munsiff of a civil court could decide such questions. I think it is quite clear that all the various types of evidence as regards these points which are taken into account by the Bombay Settlement Department cannot possibly be brought as evidence before a civil court. We cannot prove these things by witnesses; the expense would be enormous and the proceedings would drag on for weeks.

Then there is the further difficulty that there would be no sort of finality. I think I am not wronging Mr. Ray Chowdhury, when I say that he has an uneasy feeling that his proposal would not work; for he has assured us, on his own responsibility,—of course I do not know how he is in a position to judge—that only in rare cases would there be any appeal to civil courts. He urged that one reason for bringing appeals to civil courts was to prevent cultivators going to Calcutta, so I imagine that the various cultivators will go to the nearest Munsiff——

Babu SATISH CHANDRA RAY CHOWDHURY: That is not my argument. My argument was that even the Board of Revenue, and as a matter of fact even the Government will all give evidence, and the cultivator will have to come to Calcutta. That will be very costly, and the civil courts will be easier.

Mr. H. P. V. TOWNEND: It will certainly be more easy to go to the local civil court. All the civil courts in a notified area may be dealing with appeals about the assessments; will they all take the same view in all cases? Every single case could be put forward in such a way as to make it seem different from all the other cases. No two plots of land are exactly the same, and the courts would not be bound by any

classification made by the officer who framed the estimate: the appeal might be about the classifications even. The position would be intolerable. Nothing can be done by way of going on to the next stage of fixing assessments. I am not certain also that another argument may not apply. As was pointed out by the Government of India in the Resolution of 1902 which I have quoted, if the assessment of revenue was left to a court of law, the assessment would have to be made very strictly in accordance with the law; and their opinion based on 100 years of collection of revenue was that this would work very harshly on the people. I imagine that this was bound to happen. The tendency in the whole history of revenue assessment in India has been in the direction of leniency on the part of the executive officers who fix the assessments; that has been mentioned in the same Resolution of the Government of India. They say that there has been "a growing inclination towards leniency of assessment" among Settlement Officers and that this is encouraged as the avowed policy of Government.

Mr. NARENDRA KUMAR BASU: Yes, on a line pointed out by himself——

Mr. H. P. V. TOWNEND: Well, they are telling the truth about it. A quotation from the Madras report was that in a certain area as elsewhere "the net produce had been valued at much less than the current money rates, the outturn per acre deduced from crop experiments notoriously underestimated and liberal reductions had been made" on account of bad seasons. There was no right of appeal to civil courts against these assessments, and yet they made these deliberate reductions. All this was done by executive action under rule; in fixing the revenue to be recovered the Government deliberately adopted a policy of leniency. I cannot see why the people of Bengal should assume that their own popular Government under the Reforms scheme will adopt a harsher attitude than was adopted by the various other Governments in India before any of the Reforms were brought in. That seems to be an attitude that no one can possibly adopt unless he is a convinced opponent of all advance in democracy and self-government in India.

Another thing, supposing the civil court is going by evidence; the only evidence it can really get will relate to recent years: there would be difficulty about getting evidence about conditions of several years back. Suppose that just before the framing of the estimate there had been a poor outturn for several years back, no good crop for eight years or so (and such things have happened), would not the civil court tend to go by the clear evidence of the recent years and have to neglect the

suggestion that previously crops had been good, because the evidence about it was formally not of much value? The amendment would work very harshly on the people. I have not the slightest doubt that this amendment would be fatal to the working of this Bill, so I oppose it.

Rai Bahadur AKSHOY KUMAR SEN: As indicated in the case of settlement of rent under section 105, this settlement of rent is made by the revenue officer no doubt, and there is a special provision after the final publication is made within two months the people have the right of appeal to the district judge, and his decision is final. There is such a provision but in this clause 6, sub-clause (2), the Board of Revenue shall by estimate publish such notification, etc.....and the Board of Revenue becomes the final authority. The Local Government may or may not accept the findings of the Board of Revenue. Before the Local Government have decided, the public have no authority to appear before it, but the last opportunity of hearing is before the Board of Revenue. My submission is that there is that provision in the Bengal Tenancy Act where Government is not a party, even there the people are given an opportunity of having the best decision from the civil court, that is the district judge or the special judge. And in a case where the Government are assessing practically Government are a party; in a case like this the provision that is to be found in the Bengal Tenancy Act should be introduced and there will be no question of delay or expenditure of large sums of money in a civil court, only a petition bearing a stamp of 12 annas will do. In a case of special appeal like this there will be no loss of time and no "feeding" of pleaders as many of my friends apprehend. That is my suggestion and I hope the Hon'ble Member will kindly accept this. That would be a rather good provision which will satisfy the public and it will clear up their minds. We have no intention to delay such assessment or to make the provisions of the Bill unworkable. That is my submission to the Hon'ble Member.

Mr. F. A. SACHSE: I am not certain that Mr. Townend made it quite clear that in Bengal as in other provinces the civil court has never had any right to interfere with the assessment of land revenue, that is to say the amount of land revenue. Under Regulation VII of 1822 the civil courts have no right to alter the revenue fixed by Government for temporarily settled estates. Similarly under the Bengal Tenancy Act, it is true that there may be an appeal to the civil court under section 104H, but it cannot be on the amount of the assessment. A person who has been assessed to rent or land revenue under section 104 of the Bengal Tenancy Act can go to the civil court but only on definite questions like these; whether the relation of landlord and tenant exists, whether the tenancy belongs to a class different from that to which it

is shown in the record-of-rights as belonging. The civil court has no right to interfere with the amount of the assessment made by the revenue authorities and never has been able to.

Babu Satish Chandra Ray Chowdhury's motion being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Syed Kaesher.
Bakeb, Maulvi Syed Majid.
Banerji, Mr. P.
Barma, Babu Prombari.
Basu, Mr. Narendra Kumar.
Bhaudhari, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Rai Mahasai, Maulndra Deb.
Ray, Babu Bhotter Mohan.
Ray, Babu Bagendra Narayan.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Kant, Babu Nesani.
Samad, Maulvi Abdus.
Sen, Rai Bahadur Akshay Kumar.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Sawabzada Khwaja Muhammad, Khan Bahadur.
Ahmad, Khan Bahadur Maulvi Emadeddin.
Arthur, Mr. C. S.
Bal, Babu Lalit Kumar.
Bal, Rai Bahadur Sarat Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basir Uddin, Khan Sahib Maulvi Muhammed.
Basu, Babu Jatindra Nath.
Basu, Mr. S.
Bose, Mr. S. M.
Chanda, Mr. Aparna Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nazir Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Kadi Ahmed.
Cohen, Mr. D. J.
Cooper, Mr. S. G.
Das, Babu Suraprasad.
Suwarji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. S. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Haldar, Mr. S. N.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. R. P.
Hooper, Mr. S. G.
Hussain, Maulvi Mahammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Lassen, Mr. S. W.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mittra, Babu Sarat Chandra.
Nag, Reverend, S. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Reid, the Hon'ble Mr. R. N.
Sachargh, Mr. T. J. Y.
Ray, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Sarat Kumar.
Roy Chaudhuri, Babu Nym Chandra.
Sachse, Mr. F. A.
Sahana, Rai Bahadur Satya Kinkar.
Sinha, Raja Bahadur Bhupendra Narayan, of Bashipur.
Stevens, Mr. H. S. S.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Walker, Mr. J. N.
Walker, Mr. R. L.
Wilkinson, Mr. H. S.
Woodhead, the Hon'ble Sir John.

The Ayes being 24 and the Noes 55, the motion was lost.

The motion that clause 6, as amended, stand part of the Bill was put and agreed to.

Kazi EMDADUL HOQUE: I beg to move that in clause 7, in line 2, for the words "five years" the words "three years" be substituted.

The improvement levy will have to be assessed on the increased outturn of the agricultural products and for this purpose a standard is

necessary. This clause proposes to give the Local Government power to fix the value of the crop upon which a correct estimate may be made. The Local Government according to this clause will fix the value of the staple food crop annually or for such period not exceeding 5 years. There is no quarrel so far as one year is concerned because the assessment will be made on the current year's value and we have to take a chance. But so far as the period of 5 years is concerned I think that in some cases the aggregate of 5 years may far exceed the current year's value, so if the Government are not content with merely fixing the value annually let the levy be limited to 3 years. That will be sufficient for their purpose. With these few words I move the amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the period of five years has been fixed to allow Government to decide the thing for a number of years so that it is in the interest of the tenants as well as Government. Frequent assessment is going to be very expensive and there is no reason to vary the assessment for a period of years except in abnormal years. The provision for remission provides ample safeguards against hardships. Supposing in any particular year the price goes down or the yield falls short of the estimate, such cases can only be met also by remission, but if every three years we have to make frequent assessment, it means that the cost will be great. The object of everyone is to keep the cost down as much as possible. I hope after this the member will withdraw his motion.

The amendment was then, by leave of the Council, withdrawn.

Maulvi ABUL QUASEM: I beg to move that in clause 7, in lines 2 and 3, the words "or for such period not exceeding five years as may be specified in the notification" be omitted.

Sir, I have carefully listened to the reply which has been given by the Hon'ble Member to the last motion. But I am sory to say that I am not convinced by the reasons put forward. Here we are going to fix the price and not the assessment. Prices vary not only from year to year but even during the year and Government propose that once the price is fixed, it should continue for five years. The price may be fixed in a year when it is high and next year it may be low. When the price goes down, the cultivator will have to approach Government for remission. Why should you not fix the price from year to year? Government have to publish the price-lists every year under the Bengal Tenancy Act. In connection with certain sections of the Bengal Tenancy Act price-lists are prepared and published in the *Calcutta Gazette*. I do not see any reason why it should be fixed during one particular year and allowed to remain in force for five years regardless of the fact that there may be a rise or fall in the price in the meanwhile. If there is a fall, let the assessee get the benefit of it. As a

matter of fact, under the Bengal Tenancy Act Government is under a statutory obligation to publish the prices of staple food-crops every year. Then why should you fix the price for five years? I feel that in the interest of the Government as well as the assessee the price should be fixed annually.

The Hon'ble Khwaja Sir NAZIMUDDIN: As I have said before, it enables Government either to fix it annually or for such periods not exceeding five years as may be specified in the notification. So, there is a provision that in case of a boom when the prices are high, Government can fix the price again next year, but if there is no variation and if the prices do not fluctuate very much, there is no reason why we should do it every year or every three years. Besides that, it is not enough to amend the thing by a change here. If we amend this clause, we will have to make consequential amendments in clause 8 also which will mean that we will have to go through the whole procedure of giving notices and incurring the cost which, as I have said before, is not necessary. There are two safeguards in this. First of all, if in any particular year we find that there is an abnormal rise or fall in the price, Government can assess it again next year. But if there is no fluctuation, Government can fix it for a period not exceeding five years. As there are two safeguards against any hardship, I hope the hon'ble mover will withdraw his motion.

Mr. NARENDRA KUMAR BASU: Sir, may I put a short-notice question to the Hon'ble Member in this connection? He said that when there is a fluctuation in the price, Government will fix it for a number of years. But the question is whether the fixation will be before the five years or after the five years. If it is after the five years, will that be permissible under the law?

The Hon'ble Khwaja Sir NAZIMUDDIN: In that case we do not increase the levy but remit it.

The amendment was then put and lost.

Mr. H. P. V. TOWNEND: I beg to move that in clause 7, in line 3, after the word "price" the words "or prices" be inserted.

Sir, this is purely a drafting amendment. It has reference to an amendment, already accepted, in the proviso to clause 6(1), by which the House added the words "or crops." Originally the words were "crop" and correspondingly "price." It is proposed to change the words to "crop or crops" and "price or prices" in order to cover different crops with different prices.

The amendment was put and agreed to.

The question that clause 7, as amended, stand part of the Bill was then put and agreed to.

Clause 8.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that for sub-clause (*1*) of clause 8 (excepting the explanation) the following be substituted, namely:—

"(1) Notwithstanding anything contained in any other Act the improvement levy shall be imposed in respect of agricultural lands within a notified area at such rate or rates as the Local Government may, by notification, from time to time declare, and different rates may be so declared for classes of land of different descriptions or having different advantages:

Provided that any rate so fixed shall not exceed one-half of the estimated net increase, resulting from the improvement work, in the profits or one-half of the net value of the estimated increase in outturn.

Such improvement levy shall be payable by the occupiers of such lands within the notified area."

Mr. NARENDRA KUMAR BASU: Sir, before the Hon'ble Member makes a speech, may I ask you one information? Whether if this amendment is accepted by the House, the amendments regarding the change of one-third, one-fourth and such other things will not be rendered out of order? If so, I should ask you to put those things first. They are in the nature of preliminaries.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it will apply just equally to those as the other one as regards one-third or one-fourth. This will be an amendment that will replace the one that is already there, and amendments may be moved to this amendment and a discussion held.

Mr. PRESIDENT: I agree. I will take up those amendments with this and have one discussion. I will put those first.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, this amendment has been modified and there is a slightly verbal alteration in it from the one that has been circulated. A short-notice amendment has been necessary on account of the fact firstly because Government decided to give up assessing the levy on non-agricultural lands. The other day Mr. Townend explained at length why Government decided to give up assessing the levy on non-agricultural lands. I have got only two things to add to it. There are two principles subject to which it was decided to realise the levy from non-agricultural lands. The first principle was that there should be no levy until and unless the owner of the non-agricultural land got a benefit, an actual benefit accrued to him. The second principle which was also implied in that was that the levy should be assessed and realised on the first transaction that

takes place, that is to say, when the owner of a land sells the land to somebody, the levy should be assessed on the profit that he has made by that transaction or when the owner of the land lets it out to somebody, then on the increased rent that he has received the levy should be assessed. These were the two fundamental principles underlying the imposition of a levy on non-agricultural lands. Now, in view of the fact that we have come to learn that if we stick to those two principles, it would be practically impossible to realise any sum worth the name that Government hope to get by imposing the levy on non-agricultural lands, and the reason, as Mr. Townend explained the other day, is obvious. There will be no difficulty for the owners of those lands which have been improved by means of drainage. As a rule this imposition of a levy on non-agricultural lands is meant only for tracts of land adjoining a big town like Howrah or Calcutta or any other place which adjoins a big municipal area. When a lowlying land is improved, then there is the likelihood that the owner of that land will get a certain amount of unearned income and on that income the assessment will be made. Now, Sir, as I said before, to be able to realise the levy it is necessary for Government first of all to take the money only when the owner of a land actually makes a profit. Suppose before a drainage scheme was taken up a land was valued at Rs. 50 a *bigha*, but after the scheme had come into operation in course of time the value of the land becomes Rs. 500 a *bigha*. Therefore, if we assessed on the latter figure, it would be against the fundamental principle of the Bill, viz., that no levy should be realised unless and until a person has actually received the benefit from an improvement scheme. In order to give effect to this principle we had to agree to this condition that when a transaction takes place and the owner actually receives the benefit, then and then only the levy should be imposed. I want to point out that in view of these two things it is obvious that in order to avoid paying the proper levy, any owner when he finds that his land has been improved, all he has to do is to effect a collusive sale in the name of his wife or any other relation or a friend at a nominal price. Once the first transaction is over it is not possible to impose a levy on the second or the third transaction. Therefore, we found that in spite of the check that we wanted to lay down on all collusive sales we would not be able to prevent this kind of sale and that owners of lands will be able to avoid payment of the proper levy which they should pay. In view of this difficulty Government decided to give up the idea of imposing a levy on non-agricultural land. Now, I submit, Sir, that there was no way out of this difficulty. If, for instance, Government decided to impose a levy on all the transactions that took place then it would mean that Government would have first of all to make a differentiation between the benefits accruing from the improvement scheme and the increase in price due to other causes such as the construction of roads, railways, markets and various other things and

it would have been very difficult to fix the actual amount of improvement or increased price resulting from the improvement constructed by Government. In view of that and that alone Government decided to give up this imposition of levy on non-agricultural land. I can, however, assure the House that there is no other reason whatsoever for the decision and that it was not done in the interests of any particular class of people.

Sir, the second point that is involved in this amendment is the question or rather the right of Government to impose a levy up to one-half of the profit resulting from an improvement work. Now, Sir, this is one of the fundamental clauses of this Bill, and I would make it quite clear that without this it would be practically impossible—indeed very difficult, I should say—to take up any big improvement scheme. First of all, I would ask the House to remember that Government do not say that they will take the full 50 per cent. of their share of the profit but that they will only retain their right to impose a levy up to 50 per cent. and that is done only to safeguard themselves in cases where the schemes are going to be expensive and they find that it may not be possible to meet the charges for capital expenditure, interest charges, maintenance and other things. Therefore, Sir, Government would like to retain the right to impose a levy up to 50 per cent. of the net profit. I also want to establish the principle that Government should be in a position to retain to themselves a certain amount of the profit accruing from successful schemes for the purpose of paying for the unsuccessful schemes, as otherwise Government would not be in a position to take up schemes which were going to be expensive if they found that on the schemes which proved to be remunerative they were going to be debarred from making any profit whatsoever from these schemes. I want to give this assurance that Government do not intend to use these profits as a sort of an addition to the provincial revenues but that their main object is to retain them as a sort of an insurance premium against schemes that may not prove to be a success from a financial point of view; if on a paying scheme Government get Rs. 50,000 they can afford to lose even a lakh of rupees on another scheme which proves a financial failure.

Mr. NARENDRA KUMAR BASU: Will all these moneys be separately funded?

The Hon'ble Khwaja Sir NAZIMUDDIN: Each scheme will be treated on its own.

Mr. NARENDRA KUMAR BASU: Will they be funded for the purpose of improvement?

The Hon'ble Khwaja Sir NAZIMUDDIN: No; if it means that the profits of a particular scheme will be earmarked for that scheme only. That is not done as far as Government are concerned. The whole object is that any profits that Government may make from their schemes will not be used for any other object but for being spent on the development of the province.

Mr. NARENDRA KUMAR BASU: Will they not merge in the general revenues?

The Hon'ble Khwaja Sir NAZIMUDDIN: No revenues that Government receive can be earmarked for any definite or particular purpose, but I can give this assurance that this money will only be used for the development of the province, i.e., for expenditure on irrigation and drainage works—especially in the decadent areas.

Mr. NARENDRA KUMAR BASU: Sir, on a point of information may I enquire if any assurance given by the present Government will be binding on its successors?

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member giving an assurance on behalf of the Government?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, therefore, after all, Sir, this right which Government want to retain to themselves is based on the ground that in order to be able to take up big irrigation schemes it is necessary for them to spend large sums of money on capital as well as recurring expenditure. I have in my hand a pamphlet which perhaps most of the Members have read—I mean the article that was published in "Science and Culture" by Mr. N. K. Basu, M.Sc., Ph.D. (Gottingen).

In this article Mr. Basu has laid great stress on the necessity of Physical laboratories for experimental works on big drainage schemes.

Maulvi SYED MAJID BAKSH: We have read it.

Mr. NARENDRA KUMAR BASU: Mr. Majid Baksh may have read it but everybody has not read it.

The Hon'ble Khwaja Sir NAZIMUDDIN: I may quote the following:—

"The knowledge I have acquired of Bengal in two visits inclines me to believe that it is richer than Egypt. It exports in abundance cotton and silk, rice, sugar and butter." In 1815 Hamilton passed through Burdwan, Hooghly and Howrah and described this fact in the following

words: 'In productive agricultural value' in proportion to its size, in the whole of the Hindustan, Burdwan claims first rank, and Tanjore second. In 1815 it appears the *zemindars* and tenants of Central Bengal had neglected the clearing of the canals and the repairing of the banks with the silt so cleared. This negligence made Central Bengal in 1815 cede the place of honour it held in 1660 in Bernier's day to Burdwan whose river the Damodar was much better placed for irrigation than the Ganges. As the uncleaned canals took less and less water more and more water remained in the Damodar and it became a menace to the country.' Government subsequently thoroughly strengthened the left embankment behind which the East Indian Railway had strengthened itself, and made a second bank. The Grand Trunk Road which was always breached in old times was much raised and made a third bank, and later the Eden Canal made two more banks or five banks in all 'like five satanic chains' (to use the graphic language of Sir William Wilcox) binding the Damodar and dooming the once healthy and prosperous tract between it and the Hooghly to malaria and comparative poverty."

I may quote another small passage which says:—

"What is necessary is to examine the Bengal river system as a whole, first by a thorough surveying and levelling for a number of years and to collect old hydraulic data of these rivers if available. Meanwhile a scheme for a river training laboratory can be prepared, in some of the foremost laboratories of Europe and America, and a laboratory started near about Calcutta where water-supply can be arranged regularly, where the required university atmosphere can be obtained and the accumulated experience of irrigation engineers can be made use of. If Government Irrigation Department takes up the work of surveying and levelling, the laboratory scheme can be started with a capital expenditure of two to three lakhs of rupees and a recurring expense of about fifty to seventy-five thousand rupees. This scheme can develop as its activities increase till a commission very much similar to the Danubian Commission grows up that will embrace within its ambit all the irrigation projects that take their water from the Ganges and her tributaries."

Mr. NARENDRA KUMAR BASU: On a point of information, Sir. I would like the Hon'ble Member to tell us whether a technical scheme has not been in the archives of the Irrigation Department for the last 4 years?

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, what I am trying to prove is that unless you place Government in a position to give effect to these recommendations by means of an additional levy on paying schemes, it is not possible for the Government in their present financial

position to take up the expensive schemes. The capital expenditure on these will amount to Rs. 2 to Rs. 3 lakhs and the recurring expenditure about Rs. 50,000 to Rs. 75,000 a year. Every educated and civilised country in the world at the present time has realised the necessity of the establishment of regular physical laboratories for experimental works. Those who have read the literature on the subject, of course, know that in America they lost huge sums of money over schemes which were taken up before previous research in a laboratory. The schemes which have been taken after investigation in these scientific laboratories have proved to be very successful.

In this pamphlet, it is stated that the volume of water which passes through the Ganges and Brahmaputra is the largest in the whole world except perhaps the Amazon. The problem is so vast and intricate that unless it is tackled in a thorough and up-to-date manner, it is impossible to revive the decadent areas. Therefore, it is my appeal to the people that if they want these decadent areas to be revived, certain sacrifices have to be made; and after all the sacrifice in this case does not amount to much because no one has been called upon to pay anything more than, when his income has been increased, a portion of the increased profit. I would ask the House what is happening in the decadent areas during this year and what happened last year. There was a total failure of crop last year owing to lack of rains and this year people living in the Damodar Canal area and even outside the land bordering on the Damodar Canal are begging Government to give them water at Rs. 4-8 per acre in a year. The land bordering the Damodar and Eden Canals had luxuriant crops last year and this year as well they have good crops; but all lands beyond these areas are absolutely bare. Such has also been the state in the Murshidabad district where there is a danger of famine this year. The decadent areas are getting depopulated; in the decadent areas the people are getting impoverished, and if you want to improve these decadent areas something drastic has got to be done. You must agree that in a case where people are making a profit, where services are being rendered to the people, they should pay adequately to enable Government to take up improvement works in other districts in the same manner.

Sir, it is no use claiming that Government should pay for these schemes. (A VOICE: Why not?) For the simple reason that Government has not the money. (A VOICE: Divert some money from the Police.) It is no use saying that. It is a fact that the money is not there, and even under the new constitution it will not be the only subject that will have a claim on provincial revenues. There are other subjects like education, sanitation and various other transferred subjects which will have a claim on provincial revenues and if improvement is to be effected in the decadent areas, then their chance lies, if they have this Bill, they can go up and say "Give us so much money." We are not going to be entirely dependent on provincial revenues;

you are going to pay for the improvement, and I may say in this connection that that is the principle which was previously accepted in this province. In the case of Agriculture and Sanitation Act, the entire cost has got to be paid by the local people whether you receive benefit or not. (A VOICE: But that Act is a dead letter.) True it is, but under this Act you only pay when you receive benefit, not before. I would ask the House to remember that point. It is because you had that provision that the entire cost will have to be paid by the local people. We have been able to do nothing. Give us a chance under this Act; do not forget that Government is going to shoulder a great responsibility. All the schemes that are going to be failures will have to be paid for out of provincial revenues. It is not fair. In this case the people who receive the benefit of schemes that are successful should pay some part to enable other parts of the province to take up similar improvement scheme. After all, Government may lose large sums of money. There are members who again and again say that this Irrigation Department has got a black record. But anybody who has read Mr. N. K. Basu's article will know that tremendous sums of money were lost in America over irrigation schemes. (A VOICE: That is no use to us.) Quite true, but that only shows that most highly trained and expert officers organising schemes can go wrong. In Bengal nothing like that has happened, still the department is criticised. But remember what is happening in other parts of the world and do not think that your irrigation officers are to blame. They are human and liable to make mistakes just as others make mistakes in other parts of the world. (MR. BANERJI: That is no excuse.)

Therefore, I hope this House will accept the principle and give Government the power to impose a levy up to 50 per cent. of the net profit, but this does not imply that in every case 50 per cent. will be imposed. But the provision of the power must be there, that in extreme cases where there is necessity it may be imposed.

With these words, I hope the House will accept this amendment.

Mr. PRESIDENT: Before I adjourn the House I should like to say that at the request of Mr. Basu and with the concurrence of the Hon'ble Member in charge of the Bill, I decided to deal with certain amendments as amendments to a short notice amendment which was moved by the Hon'ble Member. It strikes me that amendments Nos. 277 to 314 are involved. I shall look into the matter very carefully to-night and request members to do the same, so that there may be no difficulty or delay in taking them up at the right moment.

Order, order. The Council stands adjourned till 3 p.m. to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m. on Thursday, the 8th August, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 8th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 104 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Berhampore Court station on Eastern Bengal Railway.

***19. Maulvi ABDUS SAMAD:** (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware that passengers travelling by the night trains and getting down at the Berhampore Court station on the Eastern Bengal Railway are detained at the exit gate for several minutes till the trains leave the station and are thereby put to great inconvenience, particularly in rainy and winter seasons?

(*b*) Is the Hon'ble Member considering the desirability of inquiring into the matters and taking steps to remove this legitimate grievance of the travelling public?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) Passengers travelling by night trains and getting down at the Berhampore Court station are not detained till the trains leave the station. The Assistant Station Master being the only officer on duty above the rank of a menial, collects the tickets but he has duties which entail his attendance at the Brake Vans of passenger trains. Exit gates are opened and passengers' tickets collected as soon as these duties are completed.

(*b*) Does not arise.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be prepared to direct the Railway concerned to depute another man to attend at brake vans of passenger trains, thereby relieving the Assistant Station Master to attend to his normal duties?

The Hon'ble Sir JOHN WOODHEAD: I am afraid it is not within my power to direct the Railway Company to do anything of the sort.

Maulvi ABDUS SAMAD: Will not the Hon'ble Member be surprised when I say from personal experience that the gates are not opened till the trains leave the station?

The Hon'ble Sir JOHN WOODHEAD: Sir, I can only repeat what I have just stated in my answer which was based on information received from the Railway administration.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be prepared to draw the attention of the Railway authorities to this inconvenience of the passengers?

The Hon'ble Sir JOHN WOODHEAD: I think, Sir, the attention of the Railway authorities has already been drawn by means of this question.

Silver Jubilee Fund collection.

*20. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a list of collections for their Majesties' Silver Jubilee Fund in the different districts of Bengal together with the total amount so collected?

(*b*) In what way and where is the money collected to be spent?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) As the Silver Jubilee Fund was not collected by Government agency, Government are not in a position to supply this information. It is however understood that the non-official committee which is responsible for the Fund hopes to be able to publish its accounts shortly.

(*b*) The member is referred to the public appeal made by His Excellency the Viceroy on 11th December, 1934.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to enquire for what reasons the Provincial Committee is withholding information asked for by the District Silver Jubilee Committees regarding the amount collected in each district?

The Hon'ble Mr. R. N. REID: The Committee is not withholding the information; they have not got it all ready yet.

Registrar, Appellate Side, High Court.

*21. **Mr. S. M. BOSE:** With reference to the proposal made by me in my speech in Council about making the Registrar, Appellate Side, High Court, a permanent official, will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(*i*) whether the proposal is being considered by Government;

(*ii*) whether it is likely to be given effect to?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*i*) No.

(*ii*) Does not arise.

Allowances to Jurors.

*22. **Rai Bahadur AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that the daily allowance allowed to the jurors in sessions trials has been curtailed for some time past?

(*b*) If the answer to (*a*) is in the affirmative, what are the reasons for such curtailment?

(*c*) Are the Government considering the desirability of restoring such cut in the allowance of jurors?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) The rates and conditions of payment have been modified to a certain extent.

(*b*) For securing—

(1) uniformity of practice,

(2) convenience of Audit, and

(3) economy.

(*c*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state what was formerly the daily rate of payment per head?

The Hon'ble Sir BROJENDRA LAL MITTER: I ask for notice.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state what is the present uniform rate of allowance paid to each juror attending a mufassal court?

The Hon'ble Sir BROJENDRA LAL MITTER: There is no uniform rate. There is a maximum limit, but is within the discretion of the Judge as to whether that maximum should be allowed in any case.

Rai Bahadur AKSHOY KUMAR SEN: What is the maximum rate?

The Hon'ble Sir BROJENDRA LAL MITTER: I believe the maximum is Rs. 5, but I am not certain of it.

Noabad Estates in Chittagong.

*23. **Haji BADI AHMED CHOWDHURY:** Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) when the special officers appointed to give relief to the Noabad *talukdars* in Chittagong are expected to give such relief;

(*ii*) whether relief is intended to be given to the *talukdars*, *jotedars*, *dar-talukdars*, *etmamdars*, *dar-etmamdars*, *raiyats*, *dar-raiyats*, cultivators so as to enable them to keep their interest intact;

(*iii*) whether it is intended to reduce the revenues and rents even below the village rates where there is devastation by the wild animals, inundation by saline water and the fertility of the soil is very low;

(*iv*) whether it is intended to increase the allowance of the *talukdars* in their present miserable condition not below the allowance given to the *talukdars* before the revisional survey;

(*v*) whether it is intended to reduce the high rents and revenues of those lands of *jotedars* and *talukdars* in the same proportion as that of *raiyats*;

(*vi*) whether it is intended to remit altogether all revenues and rents assessed in revisional survey on *khila* lands, waste lands, *khal*, tank, ditch, embankment, *jungly* lands, pathways, *nashis* and pasture lands, etc., which yield no profits as was done in the last cadastral survey;

(*vii*) whether it is intended to give retrospective effect to the reduction and remission of revenues and rents from the effective date of revisional survey *khatians* or for how many years?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*i*) The work is expected to be finished by the end of September.

(*ii*) Without a resettlement of all the Noabad estates under a new notification under Chapter X of the Bengal Tenancy Act, it is not possible to alter the rents of any class of tenants not directly under Government without the consent of their landlords. A detailed enquiry has shown that no general reduction is called for in the district as a whole. But in particular cases where the *talukdars'* assets were abnormally inflated by boom rents which are no longer realisable, a suitable adjustment of the allowance is being made always on the tenureholder undertaking that the relief is shared between him and the under-tenants of all grades.

(*iii*) Yes.

(*iv*) and (*v*) The member is referred to the answer to (*ii*).

(*vi*) Not all.

(*vii*) It has not been decided if and for how many years retrospective effect will be given; but should it be given, it will be given in all cases in direct proportion to the amount of arrears paid off.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member be pleased to state what reduction in rents has been given, or is likely to be given, by mutual agreement in the Noabad *taluks*?

The Hon'ble Sir BROJENDRA LAL MITTER: There is no definite rate of reduction. Each case is being considered on its own merits, and when the Additional Collector, who has been revising these rates, finds that revenue is too high in a particular case, he has the power to reduce it to what he thinks to be reasonable on an undertaking being given by the tenureholder for a proportionate reduction of rent of his tenant.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will it not be more advisable that there should be a general resettlement?

The Hon'ble Sir BROJENDRA LAL MITTER: In the answer (*ii*), I have already stated that Government decided that a general reduction was neither possible nor desirable. Particular cases of hardship are being dealt with.

Sale of estates in Chittagong.

*24. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the period from the 17th June to the 28h June, 1935—

(*i*) how many permanently and temporarily-settled estates were sold in the revenue sale in Chittagong;

(*ii*) of them, how many estates have been purchased by the Government for want of bidders;

(*iii*) how many of them in the Government purchased *mahals* used to pay revenue of over Rs. 100?

(*b*) Will the Hon'ble Member be pleased to place on the table statistics of the *mahals* purchased by the Government with numbers, names, *mauzas*, *thanas*, their annual revenues, arrears, annual assets and the purchased price of each individual *mahal*?

(*c*) Is the Hon'ble Member aware of the reasons for not bidding for those *mahals* by the public and for non-payment of arrears by the former *malik*?

(*d*) Is the Hon'ble Member also aware that the condition of the proprietors and *talukdars* of Chittagong are becoming more serious day by day?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) (*i*) Permanently-settled estates 81. Noabad *taluks* 221.

(*ii*) Permanently-settled estates 2. Noabad *taluks* 75.

(*iii*) Permanently-settled estates 1. Noabad *taluks* 2.

(*b*) A statement is laid on the table.

(*c*) No.

(*d*) No, on the contrary, there appears to be some improvement in the condition of the proprietors.

(Haji Badi Ahmed Chowdhury asked a few supplementary questions, the following being an English translation of them.)

Haji BADI AHMED CHOWDHURY: Innumerable *mahals* and *taluks* in Chittagong having been thus auctioned away have played havoc among the people of Chittagong. What steps have Government taken to remedy this?

The Hon'ble Sir BROJENDRA LAL MITTER: Government are taking into consideration the fact that a large number of *taluks* are being put up to sale.

Haji BADI AHMED CHOWDHURY: Will Government reduce the rents of land in *khas mahal* estates of Anowar, Patia, Sitakund and Mireswari, as also of lands adjoining rivers with saline water and of those in which damage is caused by wild animals? If so, at what rate?

The Hon'ble Sir BROJENDRA LAL MITTER: As I have already said, there will be no general reduction, but particular cases of hardship will be dealt with with a view of giving relief where necessary.

Haji BADI AHMED CHOWDHURY: The profits of Noabad *taluks* and the rates at which they were allowed during the cadastral survey having been reduced at the time of revenue survey, many *mahals* are going into the direct possession of Government. Having regard to this, will Government make the rates of profit as they were during the cadastral survey?

The Hon'ble Sir BROJENDRA LAL MITTER: All these factors are being taken into consideration by the officer who has been deputed to examine these questions.

Mr. PRESIDENT: Have you grasped the question correctly?

The Hon'ble Sir BROJENDRA LAL MITTER: Yes, I have. The burden of this is that there should be a general reduction, and I have already replied that there will not be a general reduction.

Haji BADI AHMED CHOWDHURY: Will Government reduce the rent of lands in other *khas mahal* estates besides Cox's Bazar, Kutubdia and Satkania, as also of lands in Patia, Sadar and Raozan *khas mahal* estates and in places where the rent is too high and of lands adjoining rivers with saline water and of those in which damage is caused by wild animals?

The Hon'ble Sir BROJENDRA LAL MITTER: The question has already been answered in answer to question No. 23 (*iii*), and the answer is in the affirmative.

Haji BADI AHMED CHOWDHURY: Whether or not the number of sales by auction has increased this time owing to the Additional District Magistrate having refused to accept the money offered by many *zemindars* and *talukdars*? And in view of the scarcity of money in the country and the inability of the people to pay money and to bid in the

auction and in view of the profits having been reduced during the revenue survey, is it or is it not a fact that sales by auction have been wrongly resorted to?

The Hon'ble Sir BROJENDRA LAL MITTER: I want notice of the question. I have not got the details of these 75 *taluks*.

Haji BADI AHMED CHOWDHURY: Is it or is it not a fact that *zemindars* were assaulted and injured when they wanted to lay themselves prostrate at the feet of the present Additional District Magistrate of Chittagong with the prayer to deposit the money with him immediately before sales by auction took place?

The Hon'ble Sir BROJENDRA LAL MITTER: A question to that effect has been tabled, and probably it will come on in a day or two.

Statement of mahals purchased by Government for the period from 17th to 28th June, 1935, referred to in the reply to clause (b) of starred question No. 24.

Serial No.	Number of Mahals.	Thana, mauza and names.	Annual revenue and Cess.	Arrear.	Annual assets.	Purchase price.
			Rs a. p.	Rs. a. p		Rs.
		Permanently settled estates.			The information is not available.	
1	28407	Thana Sitakund, mauza Bhatiari, taluk Radhakanta	19 2 0	9 9 0		1
2	33342	Thana Kutubdia, mauza Bazalia and Kudiertek, taluk Kalmi Zamindari Anwarali Khan.	320 8 6	110 0 0		1
		Nostad Mahals.				
1	19446	Thana Hathazari, mauza Kulgaon, taluk Md. Basir.	1 12 0 0 1 9	1 12 0 0 1 9		1
2	19615	Thana Hathazari, mauza Burirchar, taluk Magani.	1 4 0 0 1 6	1 4 0 0 1 6		1
3	34606	Thana Hathazari, mauza Burirchar, taluk Malkabibi.	0 12 0 0 0 9	1 8 0 0 1 6		1
4	19793	Thana Hathazari, mauza Mohara, taluk Mobarkali.	0 12 0 0 0 9	1 8 0 0 1 6		1
5	19796	Thana Hathazari, mauza Mohara, taluk Kamil.	2 4 0 0 2 0	3 2 0 0 2 0		1
6	19821	Thana Hathazari, mauza Char Rangamati, taluk Md. Ayasin.	1 8 0 0 1 6	3 5 9 0 3 0		1
7	19945	Thana Hathazari, mauza Chandgaon, taluk Akmal.	0 4 0 0 0 3	0 8 0 0 0 3		1
8	20249	Thana Hathazari, mauza Muradpur, taluk Balaramjugi.	0 4 0 0 0 6	0 8 0 0 1 0		1
9	20362	Thana Panchalaish, mauza Muradpur, taluk Asmatali.	0 8 0 0 0 3	1 0 0 0 0 4		1

Serial No.	Number of Mahals.	Thana, mauza and name.	Annual revenue and Cess.	Arrear.	Annual assets.	Purchase price.
		Noabad Mahals—contd.	Rs. a. p.	Rs. a. p.		Rs.
10	21547	Thana Double Moorings, mauza Uttar-Pahartali, taluk Purna.	1 8 0 0 4 0	1 8 0 0 3 6	The information is not available.	1
11	21689	Thana Double Moorings, mauza Saraipara, taluk Aziziulla.	0 4 0 0 0 3	0 8 0 0 0 6		1
12	21940	Thana Double Moorings, mauza Dakkhinkattali, taluk Ramjoy.	0 12 0 0 0 9	1 8 0 0 1 6		1
13	22168	Thana Sitakunda, mauza Dakhin-Shonakchari, taluk Asgarali.	4 12 0 0 3 9	4 12 0 0 1 0		1
14	23382	Thana Mirsarai, mauza Brindabanpur, taluk Nur Bux.	3 4 0 0 3 0	3 4 0 0 6 6		1
15	26179	Thana Hathazari, mauza Maidhya-Pahartali, taluk Ramprasad.	5 8 0 0 4 8	5 8 0 0 3 6		1
16	26507	Thana Hathazari, mauza Gumanmardan, taluk Janali.	1 8 0 0 1 6	1 12 0 0 1 6		1
17	27530	Thana Rangonia, mauza Pomora, taluk Ambabati	82 12 0 6 8 6	41 4 0 3 5 6		1
18	31691	Thana Rangonia, mauza Sial Bukka, taluk Amir Ali	82 4 0 7 5 6	51 8 0 4 8 3		1
19	3184	Thana Patiya, mauza Jhiori, taluk Pyaridasi	0 12 9 0 0 9	1 8 0 0 2 3		1
20	3297	Thana Anwara, mauza Burumchara, taluk Sadat Ali.	0 12 0 0 0 9	1 8 0 0 1 6		1
21	3903	Thana Patiya, mauza Habilashdip, taluk Mritunjoysen.	8 8 0 0 3 0	7 0 0 0 5 8		1
22	6847	Thana Patiya, mauza Hashimpur, taluk Akbar Ali.	7 8 0 0 7 9	3 12 0 0 3 6		1
23	6955	Thana Patiya, mauza Purba-Elahabad, taluk Makbulali.	8 12 0 0 7 3	19 10 0 1 14 9		1
24	7120	Thana Patiya, mauza Uttarjoara, taluk Jogat Chandra.	0 12 0 0 0 9	0 14 0 0 1 0		1
25	7428	Thana Patiya, mauza Harala, taluk Ramkanta.	1 4 0 0 1 3	1 4 0 0 1 3		1
26	8064	Thana Patiya, mauza Olghar, taluk Md. Wasihl.	6 0 0 0 5 0	6 0 0 0 4 6		1
27	8960	Thana Anwara, mauza Olghar, taluk Ramshebak.	0 4 0 0 0 3	0 5 0 0 0 6		1
28	9044	Thana Anwara, mauza Bilpur, taluk Kalicharan.	1 0 0 0 0 9	1 0 0 0 0 9		1
29	9347	Thana Anwara, mauza Keagar, taluk Sabjabanu.	1 8 0 0 1 3	1 8 0 0 2 6		1
30	9372	Thana Anwara, mauza Keagar, taluk Rameswari.	5 12 0 0 5 0	5 12 0 0 4 8		1
31	11331	Thana Patiya, mauza Mohira, taluk Chandicharan.	1 8 0 0 1 6	1 8 0 0 1 6		1
32	11522	Thana Patiya, mauza Baghkhala, taluk Biswambardatta.	1 8 0 0 1 6	1 8 0 0 1 6		1
33	11839	Thana Patiya, mauza Habilashdwip.	1 0 0 0 0 9	1 8 6 ..		1
34	12162	Thana Patiya, mauza Sreemal, taluk Kanuram.	6 8 0 0 5 9	6 8 0 0 5 0		1
35	12264	Thana Patiya, mauza Bahali, taluk Rammohan.	1 8 0 0 1 0	1 8 0 0 1 0		1

Serial No.	Number of Mahals.	Thana, mauza and names.	Annual revenue and Cess.	Arrear.	Annual assets.	Purchase price.
			Rs. a. p.	Rs. a. p.		Rs.
		Nosbad Mahals—contd.				
36	12842	Thana Anwara, mauza Naikhaine, taluk Kulachandra.	4 0 0 0 5 0	4 0 0 0 4 3	The information is not available.	1
37	13691	Thana Patiya, mauza Ashia, taluk Becharam.	1 12 0 0 1 9	3 8 0 0 3 6		1
38	13713	Thana Patiya, mauza Ashia, taluk, Ramsharan.	1 0 0 0 0 9	1 0 0 0 0 9		1
39	14274	Thana Patiya, mauza Katha, taluk Arbanbibi.	4 8 0 0 3 9	4 8 0 0 6 3		1
40	14282	Thana Patiya, mauza Sreemal, taluk Ramjanali.	4 12 0 0 4 9	4 12 0 0 4 0		1
41	14291	Thana Patiya, mauza Sreemal, taluk Parani.	7 4 0 0 6 3	7 4 0 8 5 6		1
42	14343	Thana Patiya, mauza Parigram, taluk Ramdulal.	3 8 0 0 4 6	2 5 0 0 2 6		1
43	14827	Thana Patiya, mauza Bahuli, taluk Trahiram.	0 4 0 0 0 3	0 8 0 0 0 6		1
44	14864	Thana Patiya, mauza Palkpara, taluk Ramshebak.	1 0 0 0 1 0	1 5 9 0 1 0		1
45	14921	Thana Patiya, mauza Karal, taluk Sabati.	1 0 0 0 1 0	1 0 0 0 0 6		1
46	15104	Thana Patiya, mauza Dengapara, taluk Gurudas.	0 14 0 0 0 6	1 12 0 0 1 0		1
47	17676	Thana Boalkhali, mauza Popadia, taluk Renuka.	1 0 0 0 1 9	1 0 0 0 2 6		1
48	17682	Thana Boalkhali, mauza Popadia, taluk Abdulkader.	1 0 0 0 0 9	1 0 0 0 0 9		1
49	18536	Thana Boalkhali, mauza Pachim-Gomdandi, taluk Akbarali.	6 0 0 0 4 9	6 0 0 0 4 0		1
50	32048	Thana Boalkhali, mauza Hasandandi, taluk Sibapur	2 4 0 0 1 9	2 4 0 0 1 6		1
51	3501	Thana Anwara, mauza Charpukuria, taluk Mohanlal	12 4 0 0 10 6	9 4 0 0 8 0		1
52	19378	Thana Patiya, mauza Jangalsitalchari	34 0 0 3 3 0	29 12 0 2 12 0		1
53	19379	Thana Patiya, mauza Jangalsitalchari, taluk Ramsaukar.	21 8 0 4 2 0	16 0 0 3 2 0		1
54	19381	Thana Patiya, mauza Jangalsitalchari, taluk, Ramchandra.	49 4 0 8 14 3	43 2 0 7 12 3		1
55	32146	Thana Banskhali, mauza Purba-Chambal, taluk Jamaluddin.	1 8 0 0 1 2	1 8 0 0 0 6		1
56	3410	Thana Banskhali, mauza Chapachari, taluk Haidarali.	2 4 0 0 2 8	2 4 0 0 2 0		1
57	1690	Thana Banskhali, mauza Raichata, taluk Doman-Chawdhury.	4 12 0 0 4 6	7 10 8 ..		1
58	2966	Thana Banskhali, mauza Raichata, taluk Ayupsahji.	2 12 0 0 6 6	2 12 0 0 6 9		1
59	4817	Thana Satkania, mauza Gargia, taluk, Mohannissa.	3 4 0 0 3 0	3 4 0 0 2 6		1
60	4821	Thana Satkania, mauza Gargia, taluk Rudra Narayan.	3 3 0 0 3 3	3 6 0 0 2 9		1
61	4997	Thana Satkania, mauza Chunati, thana Jabbarali.	2 6 0 0 1 6	2 8 0 0 1 6		1

Serial No.	Number of Mahals.	Thana, mauza and names.	Annual revenue and Cess.	Arrear.	Annual assets.	Purchase price.
		Noabad Mahal—concld.	Rs. a. p.	Rs. a. p.	Rs.	Rs.
62	5963	Thana Satkania, mauza Sadaha, taluk Roshanbibi.	7 8 0 0 8 0	7 8 0 0 7 0	The information is not available.	1
63	6052	Thana Satkania, mauza Noapara, taluk Abdulgafur.	1 8 0 0 1 6	1 8 0 0 1 9		1
64	6055	Thana Satkania, mauza Noapara, taluk Jafarali.	1 8 0 0 1 3	1 8 0 0 1 0		1
65	6726	Thana Satkania, mauza Bamandenga, taluk Asmatali.	6 8 0 0 6 9	6 6 0 0 6 9		1
66	34135	Thana Banskhali, mauza Ersha, taluk Shamsher.	14 4 0 0 13 3	25 0 0 1 5 6		1
67	1244	Thana Banskhali, mauza Khankhanabad, taluk Madhukalu.	14 0 0 1 8 3	10 8 0 1 2 3		1
68	4058	Thana Satkania, mauza Charati, taluk Indrasing.	19 12 0 1 14 0	20 10 9 2 4 3		1
69	4825	Thana Satkania, mauza Barahatia, taluk Omnoosing.	53 4 0 3 14 6	26 12 0 1 15 6		1
70	5069	Thana Satkania, mauza Paharchanda, taluk Nilmani.	826 8 0 99 11 9	1,331 5 3 187 0 0		1
71	5106	Thana Satkania, mauza Dakhin-Putibila, taluk Golam Md	46 12 0 3 2 9	35 0 0 2 6 3		1
72	5602	Thana Satkania, mauza Charamba, taluk Ramdayal.	15 0 0 1 9 0	11 4 0 1 2 9		1
73	5615	Thana Satkania, mauza Charamba, taluk Kalikinkar	18 8 0 1 3 3	14 0 0 0 14 6		1
74	5617	Thana Satkania, mauza Charamba, taluk Kalikinkar	2,678 0 0 367 0 0	3,539 8 0 560 12 3		1
75	336	Thana Satkania, mauza Khoajnagar, taluk Asharaf Ali.	44 12 0 2 11 0	33 8 0 1 8 6		1

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(Discussion on the Bengal Development Bill, 1935, was resumed.)

Mr. PRESIDENT: The House will remember that I suggested last night that the amendment that was before the House, namely, amendment No. 274, could be taken up to-day, with amendments 277 to 314 as amendments to the same. Let us now take up the first of the series.

Maulvi ABUL QUASEM: I beg to move that in proposed clause 8 (*1*), in lines 4 and 5, for the words "from time to time," the words "from year to year" be substituted.

Sir, I recognise that the maximum of levy on the estimated profits has been fixed, Government may, after the modification made in this clause, decide to take less than one-half, but that will be done after taking into consideration the prevailing prices of the staple food crops and other crops, the condition of the peasants generally and some other factors as well. Sir, the Local Government should not be allowed the discretion of doing this from time to time, but they should be compelled by a mandatory provision to do it from year to year. Sir, I have a very good precedent to cite in my favour. Under the Bengal Local Self-Government Act, the district board is to recommend every year to Government the rate at which the road cess is to be levied, the maximum to be fixed being six pies in the rupee. I cannot understand why Government should not be following the same principle here as well. Why should Government impose the levy by means of a notification issued from time to time? I suggest that Government, after actually taking into consideration the condition of the people and the prevailing prices, fix the amount of the levy every year. With these words, Sir, I commend my motion to the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: May I speak at this stage, Sir?

Mr. PRESIDENT: Would you like to speak now, or make one speech after all the relevant amendments have been moved?

The Hon'ble Khwaja Sir NAZIMUDDIN: I should prefer to give one reply after all the amendments have been moved.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in the proviso to proposed clause 8 (*1*), in lines 1 and 3, for the word "one-half" the word "one-fifth" be substituted.

Sir, my reason for moving this amendment is that one-half of the estimated net increase would be a very harsh imposition, and the people would be hard hit by such an imposition. It is the *zemindar* who has often been accused of rack-renting the *raiyats*, but here something like the *adhi* system is being introduced by Government. It would really be very hard for the *raiyat* to pay one-half of the estimated increase. He will certainly have to spend more money for better cultivation and he will have to meet other demands as well, and it is quite unreasonable that the charge should be so high. Under the old Hindu system, the rent would not exceed one-fifth of the production. In that view, Sir, I propose that the charge should not be more than one-fifth of the estimated net increase.

With these words, Sir, I commend my motion to the acceptance of the House.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in proviso

Mr. PRESIDENT: You want to amend motion No. 274 by this amendment and you should, therefore, add the word "proposed" after the word "proviso."

Maulvi TAMIZUDDIN KHAN: Yes, Sir. I beg to move that in the proviso to proposed clause 8, in lines 1 and 3, for the word "one-half" the word "one-third" be substituted.

Sir, the view of the Council as to what the amount of levy should be is not unanimous. Government has suggested that they should be empowered to take as much as 50 per cent. of the increased net profits. As regards the non-official views, from the amendments tabled it is apparent some are in favour of one-fourth, some in favour of one-fifth, and some even of one-eighth. Sir, my amendment is that the maximum should not be more than one-third. Then there is also one set of opinion which says that there should not be any levy whatsoever. However correct that view might be on principle, it is not practical politics to say that there should be no levy at all, for, if you say so, it will not be possible for Government to take up any improvement scheme as contemplated in this measure. Therefore, we are constrained to allow Government a certain percentage of the profit as levy. Now, the question is, what that percentage should be. First of all, let us examine the Government view that the maximum should be 50 per cent. Sir Nazimuddin is reported to have said yesterday—unfortunately I was not present here at that time—that without the power of imposing a levy of 50 per cent. of the profit resulting from an improvement work, it will be very difficult for Government to take up any scheme of improvement. Sir, Government only says that unless they are empowered to take 50 per cent., it will be difficult for them to take up any improvement work. Therefore, as it will not be an impossible proposition, but it will be only somewhat difficult, the question is whether Government should face that difficulty.

It has also been said by Sir Nazimuddin that Government intends to retain the power to impose a levy up to 50 per cent. of the increased net profit, but it did not imply that in every case the maximum levy would be imposed. That would only be done in extreme cases of necessity. Therefore, the view of the Government seems to be that it will not be necessary ordinarily to exercise the power of imposing a levy up to 50 per cent., but that only in certain extreme and rare cases it will be necessary to impose the maximum levy. The position of Government is not that they cannot do without a levy of 50 per cent., but that Government only wants to retain that power as a safeguard to be applied

in certain rare cases, where they think that nothing less than 50 per cent. will be sufficient. The question, therefore, reduces itself to this: whether Government should agree to a lesser levy than 50 per cent.

Sir, the present Government no doubt gives us an assurance that ordinarily no levy of 50 per cent. will be actually imposed except in rare and extreme cases. Sir, we do not suggest that the present Government will act beyond this assurance, but, once that power is given to the Government, what guarantee is there that the future Government will keep that assurance. The question, therefore, is whether we should give such a power to Government to impose a levy of 50 per cent. The Hon'ble Sir Nazimuddin may aptly say that the case of each levy will come up separately to the Council, and the Council will have the power to reduce the levy as they like. But, Sir, everyone knows how difficult it is to change things on the floor of this House. Sir, in every case Government will prepare an elaborate and complicated scheme and come up to the Council with a proposal that Government cannot do without a 50 per cent. levy. In that case, it will not be possible for the Council to reduce it to, say, 30 or 20 or 15 per cent. That will not be practical politics at all. Therefore, if we give this power to Government, they will have the liberty to impose the maximum limit whenever they like. I, therefore, submit that if Government can do with less than 50 per cent., they ought to agree to a lesser amount than that. Moreover, my proposal is not very revolutionary in character. I only propose that it should be 33 per cent.

Sir, the Hon'ble Sir Nazimuddin said while speaking generally on this Bill that the position of Government was perfectly logical. His contention is, if Government takes an action as a result of which the income of a particular class of persons is increased by say 10 per cent. why should not those people be prepared to give to the Government only 5 per cent. or one-half of the profit. I see the force of logic that underlies an argument like this. The position of Government is perfectly logical, but unfortunately in this practical world, human affairs are not always guided by rules of deductive logic. There are many other factors that determine human actions. Sir, who are the people for whose benefit the Government are going to enact this measure? It is for the development of the decadent areas. What is the condition of the people of the decadent areas? Are they not starving? Are they not ill-fed? Are they not ill-clad? Are they not unable to meet the demands of their landlords, and also those of their creditors? It is perfectly just and expedient for Government to come forward for their help. But that these people are in an abject condition there is no doubt about that. If Government are really going to confer a benefit by this enactment upon the people and if on account of improvement works proposed to be undertaken the profits of the poor tenants are actually increased, will it be right for Government to take as much as 50 per cent.

of that? There are thousands of demands on their small income: The *zemindars* are there for their dues and the *mahajans* are there for theirs. Besides meeting these demands, these poor people have to maintain their families. These are the people whose income will increase, say, by Rs. 5 per *bigha*. Will it not be unjust, inequitable to take as much as Rs. 2-8 out of that from them. I think if the question is looked at from that point of view 50 per cent. will be I think an exorbitant amount. Government can never think of imposing a levy up to 50 per cent. Fifty per cent. will be much more than the annual rent that a man has to pay for his land. These people cannot support themselves from their land after paying the dues of their landlords and that is why they look upon their *zemindars* as exactors. If the Government go to realise such an exorbitant amount from these people, they also will be looked upon as such. It may be quite logical as between two business-men to make a contract that on an increased profit of say Rs. 50, each should take Rs. 25, but having regard to the position of the starving people, I think it will be very unjust and inequitable to exact as much as 50 per cent. of the increased profits from them. I, therefore, think that the maximum should not be more than one-third. I maintain at the same time that one-third will be also too much for Government to levy. Government should not think of levying as much as that. In practice Government should impose much less But I think Government should in no case go beyond that. Government have very kindly and with very good grace come to a compromise with our landlord friends in this House. What I ask on behalf of the tenants is to show them a little mercy and to cut down the rates from 50 per cent. to 33 per cent. I think the Government can very well do that. They say it will not be possible for Government to take up certain schemes unless they are empowered to impose a levy up to 50 per cent. I cannot see the logic of this. What is the present intention of the Government? The present intention is that the levy will not be perpetual: it will not last for ever. Government will try to realise the capital expenditure incurred on a particular scheme with interest. After that the levy will be reduced to a minimum rate as may be settled by the Council. That is the proposition before the House. If the maximum is reduced from 50 to 33 per cent., the only result will be that it will take a longer time to realise the capital expenditure that will be incurred on a particular scheme. Therefore, I do not see any reason why Government should not accept this moderate proposal of mine to reduce the rate from 50 to 33 per cent.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I beg to move that to the proviso to proposed clause 8 *(1)* which has been moved as an amendment by the Hon'ble Member in charge the words "whichever is less in money value" be added.

In the proviso two alternatives have been proposed. My idea is that in that case whichever is less in money value be taken as the basis of calculation. I understand the idea of Government is to adopt one method of calculation in certain districts and another method in other districts. If that be so, I have no objection. But before adopting one method Government should ascertain which is less in money value and then they should adopt it. My proposal is for the benefit of the cultivators. They should not be charged at the higher rate when alternative calculation has been provided; the lesser one should be adopted. Government may say that there may be some difficulty if the tenant be allowed the option of choosing one of the methods. In that case I strongly advise the Government to adopt one method only. With these words I commend my motion.

MUNINDRA DEB RAI MAHASAI: I beg to move that after the proviso to proposed clause 8 (*l*), the following further proviso be added, namely:—

"Provided further that the rate so fixed shall not in any case exceed one rupee and four annas per acre of land."

It would be a hardship to poor tenants even though half the amount is calculated. So I think the rate may be lowered and fixed.

Maulvi ABDUS SAMAD: I beg to move that after the proviso to proposed clause 8 (*l*), the following be inserted, namely:—

"Provided further that the rate so fixed shall in no case exceed the rent payable for the lands for which the improvement levy is to be imposed."

I do not like to discuss in detail the impropriety of fixing 50 per cent. of the profit as levy, because my friend, Maulvi Tamizuddin Khan, has dealt at length on the point. I go further and say that the levy in no case should exceed the rent which is payable by a tenant. My point is this: Suppose the average produce of a land per *bigha* is 6 maunds per *bigha* and on account of this irrigation improvement there has been an increase from 6 maunds to 10 maunds. At present the rate of rent payable by the tenant varies from annas 8 to Rs. 2 per *bigha*. In the average the tenants pay Re. 1-8 per *bigha* as rent. Now, if there be an increase of 4 maunds per *bigha* on account of this irrigation improvement, he shall have to pay two maunds as levy and taking the value of paddy at Rs. 2-8 per maund, he shall have to pay Rs. 5 for each *bigha* of land as improvement levy. Just imagine the hardship of it. The tenant cannot pay even Re. 1-8 per *bigha* to his landlord, so it will be impossible for him to pay this additional levy of Rs. 5 per *bigha*. There will be creditors, and many other items of expenditure will be incurred on

the security of his paddy and when the time for payment comes he will have no money left to pay the levy. The rate is very exorbitant and it will not be possible for him to pay it. My suggestion is that in no case should the levy exceed the rent actually paid by the tenant for his land.

Babu KHETTER MOHAN RAY: I beg to move that after the proviso to proposed clause 8 (*1*), the following proviso be inserted, namely:—

"Provided further that the improvement levy shall not be imposed in a year during which crops of land in any notified area have been damaged by flood, or drought or insects or by any other causes, so as to leave no increased profits to the occupiers of land in any such area."

This proviso is intended for the guidance of officers who are entrusted with the task of imposing the levy. I know there is a provision for reduction. But there is no provision for taking into consideration the total destruction of crops and there is no rule by which the officer will be bound to go into the question where crops in any particular area have been damaged by drought. In order to make it obligatory on him I intend to add this proviso to clause 8 (*1*). With these words I move my amendment.

Khan Bahadur MUHAMMAD ABDUL MOMIN: The question here is with regard to the limit of the levy which the Government propose to realise every year. Taking this with the amendment proposed to be moved by the Hon'ble Member in charge, the question of the maximum rate at which the levy can be realised in one particular year has lost a good deal of importance so far as the Government are concerned; but it is of vital importance so far as *raiyats* are concerned. In the Bill the maximum is put down at half the estimated increase in the profits. As the Bill emerged from the Select Committee this clause would have meant a permanent levy approximating to the estimated increase in the profits obtained by the *raiyats*. Now, after the amendment the question of profit to be realised by Government is very much modified. In the case of the Damodar, Bakreswar and Eden Canals Government have agreed to fix the rate at a figure mentioned in the amendment without any reference to the proportion of increase in the profit. In the case of other improvements which will be done afterwards the idea is that Government will realise at a certain rate up to the time when the actual cost of the improvement including interest and so forth are realised and afterwards at a rate which the Council may decide. The question here, therefore, so far as the Government is concerned, is only a question of time and not a question of amount. If the

levy is realised at an excessive rate, the result will be that the cost of Government will be realised in a much shorter period than if the levy is realised at a smaller rate; that is the only difference so far as Government is concerned. But as regards the *raiyats*, this is very important because, if the rate is very high, it will cause very great hardships to them. The general principle in such cases is that, when the Government, or the landlords for the matter of that, are entitled to a certain amount of increase, the hardship consequent on this increase is softened by grant of concessions and by spreading it over many years. It is on this same principle that Maulvi Tamizuddin Khan's amendment is justified. The Hon'ble Member may say that the figure proposed by them is the maximum, and Government will never propose to realise it; but everybody knows that in practice wherever a maximum is fixed there is always the tendency to make that maximum the standard, and in this case too the tendency of the assessing officer will usually be to make the maximum the standard and recommend that that amount be realised from the very first stage. I would, therefore, submit that if the 50 per cent. of the estimated profits be fixed as the rate of the levy, it will cause immense hardship to the *raiyats* as will be demonstrated from the estimates which have been made by the Development Commissioner himself. According to Government's reports, the average outturn per acre of paddy in the Burdwan district is 13 (?) maunds. It has now been said that the outturn of the same land, if irrigated, will be 28 maunds per acre, and if silt is deposited it will be 35 maunds per acre. Taking even 30 maunds as the average, the difference between 30 and 13 is 17, and half of that is 8½. Therefore, under this section, if it is not amended, Government will be entitled to realise the price of 8½ maunds paddy from a *raiyat* per acre every year. This means, taking the price of paddy even at Re. 1-4 per maund, to Rs. 10 or Rs. 12 per acre. The average rate of rent in the Burdwan district is Rs. 4-8. Therefore, a *raiyat* who pays Rs. 4-8 per acre as rent to his landlord will have to pay Rs. 12 per acre as irrigation cess, *i.e.*, almost three times his rent. Even, if the assessing authority is very considerate and although he is entitled to Rs. 12 he remits two or three rupees and is prepared to take Rs. 10 or Rs. 9, even in that case Government will be entitled to an average rate which in all conscience is extremely high, and that this is so has practically been admitted by Government. The Hon'ble Member has, himself, accepted this by limiting the rate in the case of the Damodar and the Bakreswar Canals to Rs. 5-8, which shows that, although Government may be entitled to more than that, they will not realise more than Rs. 5-8. Therefore, the principle that applies to the Damodar Canal should also apply to any other canal in the future. So far as the proposed amendment 8B is concerned, the only difference is that in the case of the Damodar and Bakreswar

Canals this levy will cease to be realised after their total cost has actually been realised, and this at the rate of Rs. 5-8 per acre will, probably, mean 60 years. In the case of other canals also in the spirit of the amendments now proposed Government will realise first the actual cost of the scheme and after that the matter will be placed before the Legislative Council and they will decide what reduced levy will be realised from those schemes. The tendency will, therefore, be that once the cost has been realised, the Legislative Council of the future—it may be 50 or 60 years hence—will decide whether the levy will continue at the rate at which it was being previously paid or reduced up to the limit of the maintenance charges required and nothing more. If you keep this rate at the maximum of 50 per cent., it will only mean that Government instead of realising the total cost in 50 or 60 years—there may be particular schemes the cost of which may be realised in 30 years—will do so within a shorter period, which will entail much hardship on the *rayats*. For these reasons I support the amendment of Maulvi Tamizuddin Khan, which to my mind is perfectly fair and just.

Mr. NARENDRA KUMAR BASU: In the impassioned and if I may say without impertinence, the excellent speech the Hon'ble Member delivered last night in introducing his amendment to the House he made it perfectly clear that without legislation of this description there was no hope for Bengal, at least for the western districts of Bengal. In that speech last night he said that the condition of some portions of Bengal was really desperate, and that drastic remedies would have to be taken; I submit that there is a great deal of truth in that observation. But I shall not pause now to consider on account of whose laches, on account of whose faults, this fair land has been reduced to that desperate strait, for, it is no use now crying over spilt milk. It is no use at the present time saying that the Government by their inaction and by their mishandling of the situation have reduced Bengal to its present state, and that, therefore, Government must now go the whole hog and pay the whole amount required for resuscitating Bengal. It is also idle to say that the Government of Bengal, as at present constituted, will reduce their expenditure on what are now known as Reserved Subjects, especially Law and Order, and devote more money for the purpose of saving the people or serving the people of Bengal. As I said in an interjection last night, it is not true, in my submission, that the money is not there; but it is true nevertheless that money cannot be had there.

As I began by saying, it is not my intention to-day to indulge in vain bickerings. The question that comes up before the House now is whether tenants should pay, and, if so, how much. With regard to that, in addition to the submissions made in this House

by previous speakers, I shall make only a very few short observations. Sir, if the wishes of the people were consulted, as I have already indicated, and there were a plebiscite, the people would certainly say that it is Government certainly, which have neglected us so long, by taking our hard-earned money, and they should bear the whole expenses of this reviving; but, as I have said, that is not practical politics. Well, Sir, it is needless to say, and needless to remind the House, that Government have, in the words of the Hon'ble Member, indeed been determined upon shouldering a great responsibility, but I am afraid that this determination will not save Bengal.

With regard to a hydraulic laboratory, of which mention was made by the Hon'ble Member last night, the House will remember that three years ago during the Budget discussions several of us drew the attention of Government to the need for such a laboratory. Many members of this Council—I know memories are generally short—may remember that at the final stages of the Waterways Bill the then Hon'ble Member in charge of the Irrigation Department said that one of the first duties of the Waterways Trust, when formed, would be to establish such a laboratory which was so much necessary. The need for such a laboratory was stressed forty years ago by Government's own officers, and it was stressed again by the Hopkyns Committee. Again, it has been stressed by non-official members here and it has also been stressed in the public press by authorities of the eminence of Dr. Meghnad Saha and others The Hon'ble Member told us last night that the expenditure for such a laboratory would be two or three lakhs capital and a paltry sum of Rs. 50,000 recurring annually, but the Government of Bengal, as at present constituted, is unable to get even this amount of money for the saving of Bengal! The Hon'ble Member has made it clear in all his speeches that this new Act, when made a part of the statute book, cannot be administered by the present Government; it has got to be worked under the new Constitution. Why then, it has been asked, this hurrying with this legislation? The answer is patent—in order to make the Damodar, Eden, and Bakreswar Canals paying. The clause dealing with this matter has been accepted by this House with only six dissentients, and it is no use quarrelling with that verdict now. But, I am afraid that most members of this House did not realise what they were voting upon when they allowed that iniquitous thing to be passed by 40 or 50 votes to six. However, that is neither here nor there. Sir, my submission is that the present Government, in spite of all their high sounding phrases, have not been able to spend Rs. 3 lakhs on capital expenditure for a matter which they acknowledge to be an ideal one for the purpose of improving the condition of the people of Bengal. They now say that if this Bill is enacted, they will not be able to take up any other schemes before they themselves are dissolved not by the Irrigation Department but by a Parliamentary

Statute. Therefore, Sir, the question now is what is the amount of levy that ought to be charged. In my submission I have already indicated that I do think that some sort of levy ought to be charged, but I think it ought to be the minimum possible; and if the Act be now amended under your direction, or, I mean, Sir, with your sanction, laying down that the levy should be fixed at a certain money rate and not a certain percentage of the increased profits, I would accept that with acclamation. Unfortunately, there is no such amendment, and I do not know what the Government think about it. But my submission is that from the figures given by the father, or, I mean the author of this Bill (Mr. Townend) at page 3 of his note, it is quite clear that 50 per cent. of the net profits is much too high. It is no use trying to mislead oneself, to delude oneself and try to delude others by the phrase—"I am giving you one rupee, pay me back 8 annas." It is indeed a very catchy phrase, but you are not taking into consideration the condition of the men to whom you are giving a rupee. Where a man's income is Rs. 5 and his debts Rs. 15 or Rs. 14, if you give him a rupee, his financial condition is *minus* Rs. 9 or Rs. 8 and to take 8 annas from him would mean *minus* Rs. 9-8 or Rs. 8-8. It is, as I have said, a very catchy phrase—"I am giving you Re. 1, just give me back 8 annas." I submit, Sir, that these men are in a state of chronic poverty and debt. I am very bad at figures and I do not remember what is the exact figure given by the Banking Enquiry Committee, but I think these men are in debt per head of the population at Rs. 36 or something like that. However, the exact figure does not matter. The fact remains that these men are indebted. According to Mr. Townend the quantity of improvement that these men can expect is given at page 3 of his note. From the figures given there it approximately amounts to 15 maunds per acre, though it is a slight underestimate I do not quarrel with him. However, we may take 15 maunds per acre (*i.e.*, 5 maunds per *bigha*) without irrigation, and 38 maunds per acre with silt irrigation. Here I would ask how far that silt irrigation will extend? Will it extend to the whole area? I am certain that the answer will be in the negative; the whole of the area cannot be covered with silt. All right, then, let us take that a man gets an yield of 10 maunds per *bigha* instead of 5 maunds, *i.e.*, additional 5 maunds. The price of 5 maunds of paddy according to last year's figures is Rs. 5, Rs. 5-10, Rs. 6-4 or Rs. 7-8 at the highest. You are taking Rs. 7-8 from a man who pays rent at Re. 1-8 per annum; that is, the average rate of rent, and mind you, Sir, that on 10 maunds he has got to pay Re. 1-8 *plus* Rs. 7-8 or an additional Rs. 9. I fail to understand either the method of calculation or the logic of the proposal. Sir, I submit that there is no consistency in this proposal and that Government ought not to be in the position of a person against whom one of their present members—the Hon'ble

Khan Bahadur Azidul Haque—started legislation. Sir, we have heard many things about the hard-hearted moneylender in this country. What do they do? They take advantage of the poverty of these debtors; they take advantage of the impoverished condition of these debtors and of their inability to pay. Government are going just the same way about. Government see that the people are dying; and instead of helping these people to survive, Government are asking them to pay this levy not only out of their debt commitments but also out of their clothes with which they can hardly cover themselves up. Government know well how the heartbroken poor peasants have got to suffer in silence, but this levy must be paid even if it ends in absolute ruination. I hope, Sir, Government will pause and consider whether it is necessary to impose this levy at this rate or whether it would be better to have a money rate for this levy.

Maulvi SYED MAJID BAKSH: Sir, I entirely agree with the words of felicitation which have been offered to the Hon'ble Member for Irrigation for his excellent speech. I also agree with the generous wholeheartedness which has prompted the Rural Development Commissioner to come to the rescue of the decadent areas and to devise means by which he undoubtedly thinks honestly—and of course in that thought he might be mistaken—he might ameliorate the condition of the poor tenants in the decadent areas. Taking that as it is, I am constrained to think that that measure of generosity is very much whittled down when we find that bargaining instincts prevail in both the generous Rural Development Commissioner as well as the Hon'ble Member in such a degree that they come down to the position of *banias* and try to extract money out of the benefit that they want to render.

Sir, much has been said by the previous speakers as to the merits of the amendment that has been moved by my friend, Maulvi Tamizuddin Khan. I would rather, without making repetitions, dwell on the general aspect of the question than go into details. I would ask the Hon'ble Member: Suppose—and I take it for granted for argument's sake his postulate—he will increase the income of the tenants by Rs. 5; he wants Rs. 2-8 out of that. The previous speaker quoted some figures for which he very candidly did not vouch. The Hon'ble Member will take half of the increase that will accrue and not of the entire produce. I agree that if the increase amounts to Rs. 5 then the demand will be for Rs. 2-8. Sir, being a man of the world, I ask him whether the increase will continue so long as the tenant cultivates his laud. In the first year it may be that he may get something as a God-send. But as he is steeped in debt his creditors will see that their debts are paid, and his demands and necessities of life being upon him, I think the increase he will get of Rs. 2-8 will generally be merged into his distressed condition, and

it will not make him feel that he is in any better condition than he was before. Sir, we need not go far to find an example of that. A few years ago, owing to jute selling at high prices, the condition of the peasants was very good; and instead of the few rupees that he will get now, he used to get at that time about Rs. 200 to Rs. 300 by the sale of jute and his condition was very well off—what to speak of the Rs. 5 that this Bill will increase in his outturn. At that time it was somewhere about Rs. 25 to Rs. 30 per *bigha*, but it was due not to any benefit but to the providential grant of the high price of this commodity. What was the condition of the peasants and agriculturists then? Did he save anything at that time or did he spend the whole amount? Sir, the balancing condition ultimately prevails. Even in the case of hydraulics, as the Hon'ble Member knows, the balancing condition soon asserts itself. Whatever may be the increase in his income, the balancing condition soon asserts itself, viz., he finds himself where he was, because he is obsessed or haunted by the great indebtedness in which he is involved not out of his own fault but for the fault of his previous generations. From the economic environments in which he is placed and of course with apologies to the moneylenders and *zemindars*, the way in which his earnings are taken away year after year owing to the demands of these two species of gentlemen, at the year's end he always finds himself unable to balance his budget. Whether the Hon'ble Member will, by his good offices, increase his income or not, the peasant will find himself in a position of not being able to balance his budget. In such a condition of things if he finds that he has to pay Rs. 2-8 for the extra profit that he receives, will not this amount be a burden upon him and the benefit that he has received will merge in the general balancing of conditions. In that view of the case, Sir, I submit that the rate that is going to be fixed will operate as a great hardship on the tenant—a great hardship which he will not be able to remedy as days go on and the demands upon him increase, he will find that this is an imposition upon him rather than a benefit. Sir, as regards the proposal that money rent should be fixed, I entirely agree because that will make the tenant know where he is. Moreover, the Act does not say whether the Hon'ble Member will take the half profits in kind or money. He simply says half benefit that is to be received out of the operation of the Act. Now, Sir, if we admit that there will be quinquennial assessment or say three years' assessment, it is quite possible that when the assessment is made in the course of five years, if it is made in money, the price might go up in five years. In that case will the Hon'ble Member commute the value of the paddy or crop into the money value against the money fixed by the assessor? If that is so, that will be an additional hardship to the poor tenant. If on the other hand he will take the share of profits of paddy he will be put to enormous difficulty, he will find

it impossible to collect the paddy. Therefore, Sir, not only do I support the motion that instead of half one-third ought to be the rate, but also support that instead of the produce the money rent ought to be fixed by which the tenant will be able to know where he stands and what his position is.

As regards the hydraulic laboratory, this is a very controversial question. I cannot make out what led the Hon'ble Member to make the remark. But I think if he goes into the question attentively, he will find it difficult to establish a hydraulic laboratory in Bengal because the soil in Bengal in the rainy season where the laboratory will have to work will not be proper for it. The Railway authorities have established some such laboratory not in Bengal and anywhere else but in Poona because the soil there allows the course of the water to flow as it will flow into the natural rivers. Therefore, his idea of establishing a hydraulic laboratory will remain in theory but will not be translated into practice. Therefore, his argument of having balance out of the levy capital with which he will be able to make experiments in this hydraulic laboratory falls to the ground. Therefore, his case for realising more money than that is absolutely necessary for realising capital expenditure and interest, also falls to the ground. Therefore, he will do very well to make it a point not to realise the amount of the levy after the capital expenditure is expended. As a matter of fact, this small amount mentioned as necessary for the hydraulic laboratory can be in this case guaranteed by the Government in the Irrigation Department. The Irrigation Department spends lots of money for nothing, and it is mere wastage and out of this wastage two lakhs will be set aside for this. I am still in doubt whether he will ever establish a laboratory in Bengal.

As regards the article in the newspaper, I need not mention it. The article I have read in its first issue in the paper which is edited and conducted by Mr. B. B. Roy, Professor of the Calcutta University. These are opinions which are to be tested in practice. As regards the sum of money that is spent by the American authorities it will be taken into consideration that the American authorities spend an amount upon what is termed the longest river in the world, the Mississippi with its tributary the Missouri. That is the river which makes inroads upon its bank in a way which no other river does and in order to provide protective works large sums are incurred. I think he will remember that before he reads that article again. I am still of opinion that no levy should be made in order to make this improvement. The question may arise as to where the money is to come from. Why not try to get some money out of the Railway authorities because if you think that you are entitled to realise money from the tenant you will get very little. Why not try to get some money out of the Railway because all the source of this trouble in

Bengal is the Railway? The Eastern Bengal Railway line has been placed right across the bed of river, and the bridges and embankments have deteriorated the flow of most of the rivers. I was in good company with one of the Irrigation Engineers of the Department, who is on leave now, Mr. Curry. I do not know why the Hon'ble Member is shy of writing to the Railway authorities. I pleaded for this in my Budget speech for more than an hour, but the Hon'ble Member absolutely refused to write to them to make some contribution not out of generosity but for their own self-interest. They are granting 78 lakhs of rupees every year for the protection of the Hardinge Bridge; can they not contribute something which would benefit and develop the decadent areas? But the Railway authorities have not been written to. We are afraid of the Railway authorities. We do not like to harm companies that earn several millions in India. We do not like to touch the companies——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I never said that companies run for profit should not be touched.

Maulvi SYED MAJID BAKSH: What I said is that you would not write to the Railway authorities because you are afraid of touching companies that run for profit in India. That is the underlying idea that makes you afraid of these companies. I, therefore, support the amendment that has been moved by my hon'ble friend Maulvi Tamizuddin and for the other ones I concede much against my wish that if any limit has to be placed it should be fixed at one-third and not half.

(At this stage the member having reached his time-limit had to resume his seat.)

Babu JITENDRALAL BANNERJEE: I do not know whether I misheard or misunderstood one remark of Mr. Basu. He seemed to say that because Government by its long-continued inaction in the past had allowed this fair province of ours to come to its present wretched condition, therefore, they should have to pay the expenses out of their own pocket. This last sentence set me thinking. Has Government any pocket of its own? Does it spend or misspend a single pice or farthing out of its own pocket as a separate entity? Or rather, does not every single pice come out of one source, the universal and capacious pocket of the poor peasantry of Bengal? The question is not whether Government should pay more or less; the question is, how much more they should wring out as additional levy from the already depleted pocket of the poor peasants of Bengal? How far will the squeezing process be continued? And how long will the Bengal peasant bear being squeezed?

As regards the amendment, I give my whole-hearted support to the proposal of Mr. Tamizuddin, namely, that the levy should be one-third

and not half. This is especially with reference to the areas for which the new Bill is going to be enacted. It has been said again and again that the provisions of the Bill have been enacted mainly for six districts of the Burdwan Division and two districts of the Presidency Division. It is matter of common knowledge that these are the districts which are the most heavily charged and burdened in the whole province. The Burdwan district alone pays much more in land revenue than the whole of the Dacca Division with its rich and extensive estates. Similarly the district of Birbhum, which is the smallest and poorest in Bengal, pays twice as much in land revenue as the large and rich district of Mymensingh; and the land revenue we pay being so heavy, it follows as a necessary corollary that our rate of rent is appreciably higher than elsewhere in Bengal. And it is not simply a question of rent and revenue; the land, the soil, in these districts is much poorer than in the other parts of the province. In other districts, you have three crops and more; in Birbhum and Bankura we have one crop only, and for this one crop we have to pay much more heavily in rent and revenue than the people of other parts. And now you are adding to the burden by your exorbitant rate of levy. It is useless to say, as has been said by the Hon'ble Member again and again, that they are only fixing the maximum. As Khan Bahadur Momin has well pointed out the Government maximum always tends to be the normal; and this interesting confession has come from an ex-revenue officer of the Government who must have been doing the thing in the past, and therefore can speak with the knowledge and experience of an expert.

It has been said that after all the levy does not come out of the pocket of the tenant, it comes out, from the extra profit which he will make from increased outturn. It is all very well to say this; but what does it come to after all? The peasant of Bengal is in a chronic state of insolvency; his outturn is not sufficient to meet the demands of the landlord; it is not sufficient to meet the demand of the *mahajan*. And supposing he gets any increased outturn from any improvement work, the landlord will pounce down upon it for his balance of rent, the *mahajan* will pounce down for his interest and capital, and Government will also pounce down for its pound of flesh. At present it is said that the people of Bengal are landlord-ridden and *mahajan*-ridden. Let it not be said that they are Government-ridden as well. If that impression ever gains ground then it will be a bad lookout for the Government. It will have fearful consequences, terrible repercussions. Government must proceed carefully, and cautiously. It is a dying people with whom they have to deal; and they must not press the people too far! One single pice extorted in excess of their legitimate dues will mean the life-blood of the nation, and I implore the Hon'ble Member not to shed that life-blood.

(The Council was adjourned at this stage for fifteen minutes.)

(After Adjournment.)

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Member in charge of the Bill spoke yesterday with so much sincerity and with so much feeling that he almost converted me to his view of things so far as this Bill is concerned. His argument is that while I pay you Rs. 100 as a result of my efforts towards the improvement and get back Rs. 50 for that, what possible ground of complaint can there be? The argument is irresistible. There can possibly be no objection to paying Rs. 50 out of that Rs. 100. But, Sir, as I have emphasised more than once during the course of debate on this Bill in view of the vagueness that we find in practically all the clauses of the Bill, it is very difficult to accept the Government point and the statement of facts. My fear is this: that it may be quite possible that, taking into consideration the vague methods which they intend to employ in coming to a decision as regards the amount of profit, the poor cultivator will have to pay all the 100 per cent. if not more in meeting the demand of 50 per cent. which the Government may fix as their share of the profit. Sir, in that view it is desirable to put the figure as low as possible, and I think the suggestion that the maximum should be fixed at 33 per cent. would leave a certain amount of margin against Government's indiscretions in the matter. After all, it is claimed on behalf of Government that it is going to be a measure in the interests of the agriculturists. It should be the policy of the Government that the tenants should look upon it as a beneficial measure and if to begin with the rate of Government levy is comparatively small the objection, the irritation, from the side of the agriculturists, who will have to pay, will be less acute. In these matters sentiment plays a great part. If the impression gains ground among the people that it is the intention of the Government to grab all the profits and perhaps more by this new policy of imposing a permanent and compulsory levy on land, it will be very difficult for the Government to achieve the purpose. There will be opposition from the very beginning, and attempts will be made to thwart their policy. It will be very difficult for the Government to pursue their policy of carrying out improvements in the face of these obstructions. The civil courts are there, the civil courts of which the Hon'ble Member is so afraid. People may take the shelter of the civil court in connection with various phases of this improvement work and in that case it will be very difficult for the Government to start an improvement work in any area at all. I think, Sir, the view placed before the House by some members already in support of a lower percentage of levy ought to be accepted by Government.

Maulvi SYED NAUSHER ALI: The simple point before the House is whether the maximum of the levy should be fixed at one-half or

one-third of the net outturn. I think the argument advanced up till now is quite enough, rather overwhelming, to convince any man in any position that it is only just, fair and reasonable that the maximum should in no circumstances exceed one-third. If anybody refuses to be convinced no amount of argument will convince him. The attitude that the Hon'ble Member in charge of this Bill has taken from the beginning leads me to think that he will refuse to be convinced. Therefore, advancing of arguments practically means nothing. If I speak, however, it is not with a hope that I shall be able to convince the Hon'ble Member in charge of the justice of this amendment or of the reasonableness thereof or the necessity therefor, but because I think it should be known to the Presidency as a whole what is being done here, and who is what. Just now in his own inimitable way Mr. Banerji has put the case very lucidly to the House, and I think it is almost impossible for me to add anything to what he has said. I am just trying to analyse the situation a bit, and I think I shall be in a position to show that the Government of Bengal as now constituted is worse than the worst creditor on earth. With a view to do that I will just begin from the title of the Bill itself. The title of the Bill——

Mr. PRESIDENT: You need not go into that. It is not necessary for your purpose, and it was discussed threadbare when we disposed of the amendment relating to the same, the other day.

Maulvi SYED NAUSHER ALI: I will just show what it means and what they are going to do.

Mr. PRESIDENT: We are not concerned with that at the present moment.

Maulvi SYED NAUSHER ALI: I am trying to show that the development which they have got in their mind——

Mr. PRESIDENT: You have got to keep in view the amendment now before the House. It is not an amendment regarding the title of the Bill.

Maulvi SYED NAUSHER ALI: May I not refer to the title even?

Mr. PRESIDENT: You may refer to the title, but you cannot labour that point.

Maulvi SYED NAUSHER ALI: Sir, I am not going to labour that point.

Sir, the title of the Bill is the Bengal Development Bill, and we were given to understand by Mr. Townend, I think, in connection with the debate held on an amendment moved by my friend, Maulvi Abul Quasem, for changing the title "The Bengal Development Bill" to "The Bengal Land Improvement Levy Bill."

Mr. PRESIDENT: Well, I am afraid I cannot allow you to proceed on that line; it is entirely wrong.

Maulvi SYED NAUSHER ALI: All right, Sir. I give up that point then. Sir, Bengal being an agricultural country, the development of land means the development of Bengal. Sir, I quite appreciate that remark, and, in fact, I heartily agree that if Bengal is to be developed, the agricultural resources of Bengal should be developed first. Now, Sir, an increase in the productivity of land in Bengal will not, I submit, develop Bengal. This Bill is primarily intended to improve the economic condition of Bengal. To develop Bengal means the development of the condition of the people of Bengal and not of fertility of the soil. The people—the poor cultivators and tillers of the soil—who constitute the main source of revenue of Bengal, are dying, and if Bengal has got to be developed, the condition of these poor tillers—these peasants—has got to be improved.

Now, Sir, it is admitted on all hands that the peasants of Bengal are heavily indebted and that they cannot keep their body and soul together owing to sheer poverty. If you want to keep them alive, you have got to see that they do not suffer from the want of the elementary needs of life—food and clothing to keep their body and soul together.

Here is a proposal that money should be advanced by Government, and it has been pointed out by Mr. J. L. Banerjee that this money belongs to the poor peasants of Bengal. It has been suggested, nevertheless, that this money will be spent on improving the lands of these poor people and considerable benefits will accrue; these lands will yield more crops, and, consequently, Government propose to take one-half of the increased produce or the equivalent thereof in money. Now, the point that arises is whether, by improving the productivity of the soil, you will *ipso facto* bring happiness and prosperity to Bengal. To do that you have got to see that the economic condition of the poor peasants is improved. But how can you do that? You can do that only by leaving them a fair margin for sufficient food and clothing.

Now, Sir, adverting to the improvement proposed to be made in their economic condition, I submit that they will never have sufficient even for their very existence and bare maintenance. And, if after that, you propose to levy this tax, what will be the result? What the

result would be has been very graphically described by Mr. J. L. Bannerjee, and I need not dilate on that point. Therefore, Sir, the position boils down to simply this: Government will spend a certain amount of money for the improvement of the lands of the peasants. The peasants will be compelled to take this benefit—not that they will volunteer to do that. They cannot simply refuse it, and when a scheme is approved, it will be put into operation in spite of the objections, if any, of the peasants. The Government, which will be in the position of a creditor, will go to the country and say: "Well, this investment of money on your lands brought about an improvement in them; it has brought, say, Rs. 50 to your pockets; so please pay half of your profits to the coffers of Government!" Therefore, it is Government alone who will decide the whole question: none can challenge it anywhere—the creditor deciding what profit the debtor has derived and what the latter should pay? The debtor must have to pay one-half of the profits. If he does not pay, there is the certificate procedure and your property will be "Sold up." Would any man agree to be compulsorily benefited in this way? I think the Hon'ble Member in charge put a question to the House. If land is improved at another's cost and if that land gives an increased return, is there any man who will refuse to take that benefit simply because he has to pay half of the increased return? I put a counter-question to him, viz., will any man agree to put his creditor in the position of a judge? Sir, this is the simple position. Over and above this you ask the tenants to pay one-half of the profits. I submit, Sir, that in most cases it will not be one-half: it may be even more than the actual return. As I have already stated, it means that the poor man, even assuming for the sake of argument that he gets a return, will be in a greater difficulty. His landlords and his creditors will pounce upon him, and it will be very difficult for him to prefer this man to that: Nay, it is not a question of paying, but of living for the poor people. The yield will not, admittedly, be sufficient for his very maintenance. Therefore, I submit, Sir, that as Government will not lose in any way by accepting one-third as the maximum, it means only spreading the debt over a larger number of years. I think this proposal of my friend Maulvi Tamizuddin Khan should commend itself to this House.

Sir, we have got to place ourselves in the position of the poor peasants. If Hon'ble Ministers and others cannot do without their Rs. 64,000 a year, what is the position of the poor peasant, who cannot earn even Rs. 64 a year? (Hear! hear!) And if you want to add Rs. 10 more to that, it will be cruel on the part of Government, whose criminal neglect has brought about this state of affairs, to ask the poor peasants to pay half of the levy. As for myself I have already made my submissions against any kind of levy whatsoever. It is the clear duty of Government to improve the land—especially in the decadent

areas—and to see that the poor rate-payers and tax-payers get the benefit of the tax they pay; but if any levy is to be imposed at all, I think it should, under no circumstances, exceed one-third.

Now, Sir, these poor tillers of the soil have been sapped of their life-blood for so many years, and they have never got any return in any shape. Government have not provided for any conveniences and any amenities of life for these poor people, and one is astonished to find that Government and their supporters—who constitute but a very limited few of the population of this province—have enjoyed the earnings, the hard-earned earnings of the poor tillers of the soil, and now that they find that there is no life-blood left to be sucked out of the poor peasants, they have come forward with a proposal that Government should invest money on the land and in this way wring out something out of these poor people, if possible. There is no escaping the fact that the payment of the levy will be a compulsory one.

Sir, I would appeal to the Hon'ble Member in charge of the Bill to visualize the position of these poor people. He being a rich man—born in a Nawab family——

Mr. PRESIDENT: Order, order. You must not indulge in personalities.

Maulvi SYED NAUSHER ALI: I am sorry, Sir; but that is a fact all the same and I was going to say that he should try to place himself in the position of the poor people, though that might be difficult for him.

I am sorry, Sir, but I appreciate your ruling. I must admit that I was led away by my feelings to some extent. I was going to make an appeal to the Hon'ble Member in charge to visualize the condition of the poor peasants.

Well, consider the position of these poor peasants and you will find that, while trying to improve their condition, by fixing the maximum rate at 50 per cent. of the net profits you are practically frustrating the object for which this Bill has been introduced.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, this subject has been discussed threadbare by several speakers—one after another. And I think that I have very little to add. The point before the House is this: the honest Member of Government——

Mr. PRESIDENT: What is the significance of that adjective? (Laughter.)

Nawab MUSHARRUF HOSAIN, Khan Bahadur: What I want to say, Sir, is this: That the Hon'ble Member in charge of the Bill

honestly believes that the maximum is not the minimum and that if a maximum is fixed, the maximum levy will be imposed only in exceptional cases (Sic). He honestly believes it. He thinks that it is the right thing and that all who agree with him think in that way. But, unfortunately, the case has been complicated by the confession of a perpetrator of wrong. I mean Mr. Momin.

Mr. PRESIDENT: Order, order. I do not understand what you mean.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Mr. Momin, with his experience of the Settlement Department—having worked as a Settlement Officer for a large number of years and as Director of Land Records—confessed before this House (KHAN BAHADUR MUHAMMAD ABDUL MOMIN: What did I confess?) that Government officers, whenever they find themselves in a position like this, always consider the maximum to be the minimum.

Khan Bahadur MUHAMMAD ABDUL MOMIN: On a point of personal explanation. I never confessed anything. What I said was that the general tendency of Government was to fix it as high as you can- this applies to mercantile bodies as well as to Government.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, here you see the confession is more pronounced.

Mr. PRESIDENT: Nawab Sahib, please do not be led away by your friends around you. Wrong words are being put into your mouth. (Loud laughter.)

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Now, Sir, the question is this: That after hearing Khan Bahadur Momin, I believe that the officers of Government other than those who are working at the head are prone to interpret the maximum as the minimum. I was prepared to support half and half when I came to the Council Chamber, but after hearing the speech of Khan Bahadur Momin a suspicion has arisen in my mind that if Government officers interpret the maximum as the minimum or the standard amount that they should realise from the people, I think "one-third" ought to be the maximum. If, on the other hand, the mentality of the Government officers be changed, then we may say that the minimum is minimum and the maximum is maximum. But until one can have implicit faith in the officers of Government we should be a little strict. So, I believe that it will not be wrong if, in the present state of the mentality of Government officers, we say that "one-third" should be fixed as the maximum.

Sir, there is one other point which I wanted to urge at the beginning. It is that the Government will not in any way be a loser by this ratio of "one-third." Government here has been considered as a person above the people who wants to extort from the people as much as he can. Sir, I am not however such a person who believes in a theory of that kind. Government is the custodian of the rights of the people or rather a representative of the people who works for the people; and as such I can never believe that Government can be influenced by any consideration other than that of doing good to the people. Here, probably owing to the heat imported into the discussion my friend, the Hon'ble Member in charge, believes that unless half and half is conceded the whole Bill will go. I am, however, not at one with him. The principle of all business is that if you invest any capital from which a benefit accrues to the people permanently, you ought to see that the amount is realised from the next generation and the generation following. Of course, if the thing is permanent, it will be inherited by our successors and the successors of our successors. So, if a permanent improvement has been effected by some capital which has been raised not by any individual but by the prestige of Government who is really the representative of the people, then why should Government or any member working under Government think that if this money be gradually realised from the people, it will wreck the whole Bill. On the contrary, I believe, it is a sound policy to take as little as possible on account of the capital levy and to extend the realisation over a considerable number of years. I submit, Sir, if that is done it will really be a safeguard for the existence of Government. Suppose, Government raises now a loan of Rs. 500 crores from the people of the country; those who will invest that money will think five hundred times before they attempt to turn the Government out of the country. So, Sir, instead of considering this proposal as being prejudicial to the Government, I consider it to be for the safety of this Government. The more money Government take from the people by way of loan the more secure they will be. With these remarks, Sir, I resume my seat with the hope that the Hon'ble Member in charge will understand the position before coming to a decision in the matter.

Dr. NARESH CHANDRA SEN GUPTA: Sir, may I, with your permission, move my amendment No. 276?

Mr. PRESIDENT: I think it relates to clauses 4, 5 and 6. Besides that, we are now dealing with the amendment which has been moved by the Hon'ble Member in charge. Let us finish this and in the meantime you can find out whether your amendment relates to the clause under discussion.

Dr. NARESH CHANDRA SEN GUPTA: Very well, Sir, I am afraid that in dealing with this amendment of the Hon'ble Member in charge and the amendments of others, we are practically talking in the air or rather building on no foundations whatsoever. We do not know what money the Government will want to spend on any improvement scheme. We do not know what will be the yield from the revenues which the Government wants to realise. Nonetheless Government starts with a rule of the thumb—nothing more than the rule of the thumb will satisfy them. The first rule of the thumb which they had was clause 8 as it stood originally in the Bill. The Select Committee amended it and now the Hon'ble Member comes forward with a further amendment. Nevertheless, the principle remains that the levy shall be imposed as such rate or rates as the Local Government may, by notification from time to time, declare. There is no principle to guide the Local Government or the Collector or anybody else in the world; there is nothing to show on what basis or principle the rate is to be fixed; and then comes the saving clause, viz., the proviso that any rate so fixed shall not exceed one-half of the estimated net increase resulting from the improvement work in the province or one-half of the net value of the estimated increase in outturn. Why should it not be more than half: why should it be more than one-third or any other figure? On what principle is it fixed? I suppose my friend, the Hon'ble Member in charge, will answer by saying that it is the rule of equity. Where there are no proportions divide it equally. That would be simply quibbling in the manner of the lawyers who, I suppose, at the present moment form the *bete noir* of the Government. Sir, my own idea is that we should be very definite about the principles on which the levy ought to be made and the limit ought to be so fixed that there should be a fair return of the outlay. This clause 8 does not do that. It is taking a leap in the dark. You are making a rule of the thumb which may or may not work; and probably the Government will come back before this Council with amendments if it does not suit. Why have that? Why not have something on the lines which I have suggested in the amendment which I shall move later on? Why not lay down a definite principle—a principle on which the levy will have to be fixed in each particular case just as you have done in the case of enhancement of rent on account of improvements under the Bengal Tenancy Act, so that you have something definite which you know. When you have laid out so much money you are entitled to get so much in return. On the other hand, what will be the result of this? Let us suppose for instance an improvement work is undertaken, such as the opening out of the river Mathabhanga; you make a small cut and as a result there is an improvement in the soil of the whole of the districts of Nadia and Jessore. The cost of the little cut may not be large, still every man in Nadia and Jessore or any other district through which the river flows may be made liable to pay the levy equivalent to half the value

of the increased production. On what principle? Well, the answer is: Government will not be so unreasonable as that. If that is so, why not lay down that the amount of the cost of improvement should be one of the things which should be taken into consideration in fixing the amount. Why not take into account that the increase in the productive powers of the land caused by the improvement undertaken only is to be considered. There are other circumstances such as increased cost of cultivation which has been necessitated for taking advantage of the improvement. These are the circumstances which are got to be taken into account. Why not lay down principles and proceed on them in a methodical, scientific way so that you will never stand to lose, you will never make unjustifiable profit. On the contrary the Government say: Let it be half maximum. What is the reason for this difference between the provision of the Bengal Tenancy Act with regard to enhancements of rent and this? It is that while the Bengal Tenancy Act is administered by courts this law will be administered by executive officers who must be above every rule. There is no other reason for this which will justify a rule of thumb of this character. But if there is to be a rule of the thumb at all, the lower it is the better. And if we must have it, let the maximum be one-third and no more.

Mr. P. BANERJI: Sir, after so much has been said by the Leader of the Opposition, and also the arguments put forward by Mr. J. L. Bannerjee, I thought the Hon'ble Member would have got up and said at once that Government had decided to accept the amendment. I fail to understand why Government does not see its way to accept it. What is the difference suggested after all? The difference is 50 per cent. and 33⅓ per cent. Sir, if the Government accept this proposal, what is the effect Government say they will realise the maintenance cost and also the interest besides the capital expenditure in 60 years' time and has fixed the rate at Rs. 5-8. What does it matter if instead of realising the amount in 60 years Government realises it in 80 years. What is 80 years in the life of a Government? It has been stated in this House that Government has reduced this fair province into decadent areas. Government by its inaction in the Irrigation Department in particular has allowed the Railways to make embankments. There has been a long-standing cry by Dr. Bentley, who is an authority, and we are surprised to hear from our present Development Commissioner, when he was here he was not listened to. That being the case, the Hon'ble Member and your Development Commissioner want to settle the whole thing like a dictator. I challenge whether he will be able to do all these things in his lifetime; it is not possible in the lifetime of an individual to do what has not been done in a hundred years. That being the case, what is the difference? The difference is only 20 years. It has been suggested by Mr. J. L. Bannerjee that money will come from the cultivators. If you give this capital expenditure

instead of realising it in 60 years you realise it in 80 years; what is the difference even if it is realised in 100 or 150 years? Government if they want to do real good to the people should accept this amendment and other concessions and consider what is to be done. I pointed out this in my argument, and the Development Commissioner did not even try to substantiate his argument by reason.

The people are dying by thousands in these dacadent areas of malaria, and if you read the newspapers you will see that famine is raging everywhere in the countryside and particularly in the district of Burdwan where there is drought. The Hon'ble Member pointed out that he was going to realise rent in these districts where there is not enough water even at the end of June. But that does not matter; the water should have been supplied by the 15th of June. I will tell him about the 40 square miles of land he was referring to. I charge the Government and the Hon'ble Member to deny that this is now a desert and lying fallow this year as the peasants could not cultivate the land, while in other years there were crops in abundance. The result is that mischief has been created by Government. Maulvi Abul Kasem has also referred to this area and the mischief created there. There is the Banka river; this river used to irrigate this land. The people constructed dams and irrigated their land, this 40 square miles. Now after the construction of this Damodar Canal which has passed through this Banka river, a sluice gate has been constructed, thus controlling the free flow of water on that side. Government by their own action has obstructed the natural flow of the river; for this reason there has been failure of crops, and this has happened by the action of the satellites of the Government. This is a state of affairs to which the Hon'ble Member has referred, and the Development Commissioner has not had a word to say about it. I consider that their heads should hang down in shame for what has been done. They have done just what the *gomasta* of a *zemindar* would do to force the people to take water by paying a tax. The people are dying of want and have to pay Rs. 4-8 for tax. This is a situation which has alarmed everybody in this House, and that is the state of affairs in the countryside. We do not see these things ourselves, and the Hon'ble Member is not in a position to represent things before us. He has only said that the Bill will be wrecked. I challenge him to prove how this will be. The real intention of this clause is that the Government want money. I challenge him to deny that this sort of situation has been created by these constructions; obviously these canals should not have been constructed. I say that this calculation should be revised and the figure should be for the Damodar Canal kept at Rs. 2-8. This should be the maximum charge. If prices rise it could be enhanced to Rs. 4-8. If these things continue, as has been hinted, Government will exasperate the people. Government must reconsider this matter.

The Hon'ble Khwaja Sir NAZIMUDDIN: Before I proceed to reply to the various points raised by the amendment of Mr. Tamizuddin, I would like to say just a few words regarding the amendment moved by my friend Abul Quasem. He proposes in his amendment that the rate should be fixed from year to year instead of from time to time. Now I submit that this will not be in the best interest of the cultivators. If the rate is fixed from year to year and if in any year the prices of agricultural foodstuffs go very high, the tendency may be to raise the assessment. On the other hand, if it is from time to time and the prices fall, there is a provision for remission, but if the prices go up there is no provision for any increase for assessment already made. So, it is obvious that year to year is not in the best interest of the tenant, whereas from time to time is in their best interest. I will try and deal with various points raised in this debate for reduction of the percentage of levy from 50 per cent. maximum to 33 per cent. maximum.

Maulvi ABUL QUASEM: May I with your permission draw the attention of the Hon'ble Member to sub-clause (*1a*) where it is stated "such period not exceeding 5 years." What will then happen?

The Hon'ble Khwaja Sir NAZIMUDDIN: I made that point quite clear when the amendment was discussed.

The first point that I want to make clear- and I am afraid I have spoken on this point many a time and I have again to stress it as in spite of what I have said it has been put up again and again, and it is this. There can be no comparison between rent, tax or even *adhi* or *barga* system and the system that is proposed in this Bill, namely, this levy. In the case of rent whether there is a failure of crop or not, the rent has to be paid. When members get up and say people are not in a position to pay rent it is generally assumed that they are not in a position to pay when the prices fall or when there is a failure of crop. I doubt that except in very rare instances if it is possible to argue that the tenant is not in a position to pay rent when there is a fair and average crop. Therefore, the difference between rent and levy lies in this: Whereas rent has to be paid and can be paid when there is good crop, rent cannot be paid when there is a failure of crop or prices fall. But in the case of levy, the levy will only be paid when there is good crop. But there will be a remission from levy if there is a failure of crop. Similarly, the same argument applies in the case of foodstuff, in the case of *adhi* and *bargadars* which has been argued by Babu Kishori Mohan Chaudhuri. Babu Kishori Mohan Chaudhuri says that the question of the cost of cultivation and various other additional burdens has got to be taken into account if the maximum of 50 per cent. has to be realised. I submit that the 50 per cent. maximum is on the net profit after taking

away all additional expenditure which the cultivator incurs on account of the increased crop which he will get. As far as this levy is concerned, it is going to be on the net profit, and it is only going to be paid when there has been actually an increased profit, and in case of failure of crop the man has to pay nothing.

Now I come to the question raised by Maulvi Tamizuddin Khan. He has argued and unfortunately practically every member who has supported him has laid stress on the same point, namely, that in my speech I have said that it will be very difficult to enforce the Act if the maximum is not 50 per cent., and then he went on to argue that it will not be possible. What is the difficulty according to him; not according to me? The difficulty will be this that, instead of making an equated payment, say, in 30 years, Government will have to take 50 years to pay the total amount.

Mr. NARENDRA KUMAR BASU: It may be 40, 50 or 60 years.

The Hon'ble Khwaja Sir NAZIMUDDIN: That is a point which has been raised by everybody and unfortunately everybody has understood that Government is pressing for this 50 per cent. maximum on the ground that it would like these equated payments of the capital charges to be paid off as quickly as possible, and if it is possible to extend the period to 40, 50 or 60 years, then the levy can be reduced to 33 per cent. and the cost of the scheme can be met. But that is not the point. The point is that Government want to keep the margin of 50 per cent. for the following reason. Supposing there is a scheme of which the total cost of maintenance and capital charges comes to Rs. 4 lakhs, and at 33 per cent. the realisation comes to Rs. 3 lakhs or Rs. 3,50,000. Thus, you will have a permanent deficit of Rs. 50,000.

Mr. NARENDRA KUMAR BASU: Is the expenditure annual?

The Hon'ble Khwaja Sir NAZIMUDDIN: The question is that if it is found that the capital charges and the recurring cost cannot be paid from the income that will be derived from the levy, supposing the total cost of maintenance charge and other charges comes to Rs. 4 lakhs a year and the total levy comes to Rs. 3 lakhs, there is an annual deficit of Rs. 1 lakh. Even if the loan is taken at 60 years repayment or 100 years repayment still supposing the levy does not cover the cost of maintenance and other expenses, then it means that the scheme cannot be taken up if the levy is fixed at 33 per cent.

Mr. NARENDRA KUMAR BASU: Even if it is 50 per cent. it may not be possible to take up a scheme; and a scheme which is unprofitable should not be taken up.

The Hon'ble Khwaja Sir NAZIMUDDIN: No, it is possible at 50 per cent. It may be a paying scheme if the rate is fixed at 50 per cent., and that particular scheme can be taken up. I am sorry I cannot make this point clear, but I will try to repeat my arguments again. Supposing the total income at 33 per cent. levy is Rs. 2 lakhs and your cost of maintenance charge and everything else is Rs. 3,50,000, it will be a losing concern. But if the levy be 50 per cent., your total income would be Rs. 4 lakhs and your cost will be Rs. 3,50,000, and therefore it will become a paying scheme. I hope I have made that point clear.

Now, the question arises, and that is the question which every member should ask himself. Are you going to allow the people to remain in a starving condition, unfed, unclad, impoverished, dying? Are you not going to allow the levy of 50 per cent. on net profit, so that you can improve their condition and remove these things which you have suggested, namely, the abnormal condition of starvation or unclad or unfed? That is a question which every member should ask himself. Supposing by the imposition of a levy you are in a position to remove their present conditions, are you going to refrain from imposing that 50 per cent.? Are you going to allow them to starve? Are you going to allow them to remain uneducated or are you going to impose 50 per cent. levy on net profit to improve the condition of the land and to improve the condition of the people?

Mr. NARENDRA KUMAR BASU: Will the levy be an annual charge on their land?

The Hon'ble Khwaja Sir NAZIMUDDIN: Fifty per cent. levy is based on the assumption that it will be on the net profit.

Maulvi SYED MAJID BAKSH: Is it only an assumption?

The Hon'ble Khwaja Sir NAZIMUDDIN: That is the intention of the Act. If you say that the Act will not be administered as it is passed by the Council that is a different thing. Supposing that it is administered as you pass it in this House what will be the consequence of that? That is the question. Supposing it is administered as it is passed and even if for argument's sake the maximum levy of 50 per cent. is imposed, what will be the condition of the cultivator? It is very easy for Mr. Bannerjee or any other hon'ble member to argue that if you put one rupee in my pocket and my deficit is Rs. 10 my position is not much improved: that is no argument. I increase your annual income by 50 rupees and your deficit is Rs. 5 and if I take Rs. 25 you are still to the good by Rs. 20. You increase the purchasing power of the *raiyat* by Rs. 20. The whole question is as to whether

the 50 per cent. would be justified and whether it will be possible to levy it. Those facts will be determined by the Legislative Council. If at the present time a member of the Executive Council can agree to the reduction of rate why should you think that the Government under a complete Provincial Autonomy with responsible Ministers will impose an unfair burden on the cultivators. In this connection may I remove the misunderstanding that has been regarding the reduction of the Damodar Canal? Mr. Tamizuddin Khan said that that reduction meant a concession to the landlords. I do not understand how——

Maulvi TAMIZUDDIN KHAN: I did not refer to the Damodar Canal. It is a mere supposition on the part of the Hon'ble Member. My remarks were in connection with some other scheme.

The Hon'ble Khwaja Sir NAZIMUDDIN: Anyhow, the concession made as regards the Damodar Canal was not to please the landlords, but in the interest of the tenants. I do not see how it can be imagined that the reduction is in the interest of *zemindars*. The main concession was about Damodar rate. May I refer to Khan Bahadur Abdul Momin when he says that as the Damodar rate has been reduced why should not the rate be reduced in the case of others?

Babu JITENDRALAL BANNERJEE: Has it been reduced? Is it less than Rs. 5-8?

The Hon'ble Khwaja Sir NAZIMUDDIN: Under the Act if 50 per cent. or even 33 per cent. is realised, there is the possibility that that rate would be more than Rs. 5-8: and if that be so, if we fix a maximum of Rs. 5-8, it is a reduction. That is a position which I think Mr. Bannerjee or any other man of logic can deny. (A VOICE: That is a mere supposition.) We are all arguing on supposition: When people say it is a hardship, it is on supposition.

Mr. NARENDRA KUMAR BASU: It is not a supposition: it is a hard fact.

The Hon'ble Khwaja Sir NAZIMUDDIN: Certainly not. May I say that Khan Bahadur Abdul Momin has been quoted as an expert in revenue matters and as an expert as a Government officer. But, Sir, I am afraid, the statements of Khan Bahadur A. Momin in the Council does not necessarily mean that they are made by an expert Government official. If I may read out from the Report of the Settlement Operations in the district of Jessore, written by Khan Bahadur Abdul

Momin, the following passage occurs and I would like the Council to judge for themselves how this can be reconciled with what he has said here:—

"Any taxation from within will lead to party feeling and will make the Union Boards unpopular. People, however, will not mind a taxation from without so much, as has been found from experience. The agriculturists of Jessore, in spite of their well-known poverty, did not mind in the least the settlement costs recovered from them and would not really feel a much lighter imposition, and when tangible results will be apparent, the taxation will be appreciated. The taxation, therefore, in the first instance must be from without. The people of the country, in spite of all their shouting, have yet to learn to work as a corporate body, for the welfare of the whole country. They are like chronic patients who are unwilling to take the bitter pill, although they know very well that its administration will cure them. The pill has to be prescribed by the doctor and administered to them by the nurse. They know very well what improvements are necessary and how they are to be effected, but will always shirk the unpleasantness of taxing themselves to remove the evil. If, however, they are forced to do so by Government or outside agency, they will surely submit and, under proper advice and gundance, will soon learn to improve their condition."

Mr. NARENDRA KUMAR BASU: That was repetition of his master's voice.

Khan Bahadur MUHAMMAD ABDUL MOMIN: That is hardly relevant. It has nothing to do with imposition of any levy. It is not fair to quote any portion of my Report without reference to its context. It has nothing to do with the 50 per cent. levy.

The Hon'ble Khwaja Sir NAZIMUDDIN: Similarly, I find that a certain gentleman, a Chairman of District Board, has refused to have the revaluation of assessment because he apprehends that there is likelihood that the assessment will be reduced from Rs. 4,80,000 to Rs. 2,60,000, and that reduction would be the result of the Act passed by this House. Jessore is a decadent area, an impoverished area, and the cess reduction would have meant a great relief to the people but, as Chairman of the District Board, he protested against a reduction, because he knew that, without money, no work could be done, and the District Board has been doing a good deal of work since. He felt and realised the necessity of the people paying, but unfortunately on this occasion he thinks otherwise——

Maulvi SYED NAUSHER ALI: May I make a personal explanation, Sir?

Mr. PRESIDENT: No, not at this stage, as the Hon'ble Member is not inclined to give way.

The Hon'ble Khwaja Sir NAZIMUDDIN: Now, I come to Mr. Narendra Kumar Basu. He has admitted that he is not strong in mathematics and unfortunately he honestly believes that he has made a mistake—quite honestly made a mistake—but comparing the rent of one *bigha* of land at Re. 1-8 with the water rate for one acre of land at Rs. 7-8. He said that the rent was Re. 1-8 and the levy that was going to be made would be Rs. 7-8 per acre. He quoted from Mr. Townend's figures which give the yield as 30 to 35 maunds per acre but not per *bigha*—

Mr. NARENDRA KUMAR BASU: I said 10 maunds per *bigha* which comes to about Rs. 30 per acre; that is the increase——

The Hon'ble Khwaja Sir NAZIMUDDIN: Therefore, there was a mistake in his calculations. In any case, I maintain that whatever be the basis you take, there cannot be such a huge difference of Re. 1-8 and Rs. 7-8 between the rent and the water rate per *bigha*. The rate can never come anywhere near it, and no calculation can bring the water rate to Rs. 7-8, even taking the figures under Mr. Townend's calculations.

Mr. NARENDRA KUMAR BASU: It appears that the Hon'ble Member himself knows less mathematics than myself!

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I repeat that the question before the House is whether you will allow Government to take up schemes for the betterment and improvement of the decadent areas of Bengal? Government consider this amendment to be of great importance. They consider that it is absolutely essential to keep a margin of 50 per cent. as a maximum. I would ask the House to remember that the sanction of Government and of the Council will have to be taken by the Irrigation Department on their estimates and assumptions, and that no Government and no Legislative Council is going to allow any Department of Government to commit itself to any expenditure of crores of rupees if it thinks that there is likelihood of any loss, permanent or recurring. So, I maintain that if you restrict the hands of Government by fixing the levy at 33 per cent. of the profit, the position will be that the Government and the Council will not allow schemes to be taken up under this Act and they will have to be a burden on the provincial revenues which will be made to apply not only to the decadent areas but the people of the whole province will be taxed to pay for these improvements. No Council will allow any

Government to commit itself in that fashion and to incur expenditure in that manner. The idea is that if there is a margin of 50 per cent., the Council and the Government, if they are satisfied that 33 per cent. is not likely to meet the cost of a particular scheme, may go up to 40 per cent., 45 per cent. or 50 per cent., thereby enabling the cost to be met and securing themselves from any loss. Now, if the House will remember, Mr. Townend told us the other day in this Council that even in America in respect of irrigation schemes and difficult engineering projects there is as high a difference between the estimates and the actuals as 20 per cent., 30 per cent. or even 40 per cent. Now, when you calculate your income there is no reason to suppose that you must not keep a margin between your income and your requirements. Your estimate of probable income may be 33 per cent., but the actual may be only 10 or 15 per cent., and, therefore, you must keep a margin of some good size. In case your income is not according to your estimate, by raising the rate of levy you will be in a position to meet your expenses and not allow Government to suffer loss on a particular scheme. Therefore, 50 per cent. is necessary as a safety margin for getting the sanction of Government as well as of the Legislative Council. After the scheme has been completed and after it has been seen how it will work, there is no reason why, if it is found that 33 per cent. will give us a sufficient return, there is no reason why the full maximum, namely, 50 per cent., will be imposed. I would, therefore, ask the Council to bear in mind that, if there is a strong opinion now against giving that power to Government to have in reserve, as it were, the authority to impose the maximum levy of 50 per cent., the future Council will be "truly" representative of the masses and they will never allow Government to impose the maximum levy when it is possible that 33 per cent. will meet the cost and pay the future recurring expenses of a scheme. It is impossible that they will do so; you cannot argue both ways. It is simply not possible. After all, the provision in this Bill of coming to the Council and taking sanction before the levy can be imposed is ample safeguard against any apprehension of this kind. What is the position reduced to, then? Either to refuse to trust the future Council to safeguard the interests of the masses even if you allow the 50 per cent. to be kept, or, on the other hand, to prevent anything being done for the improvement of the decadent areas of Bengal: this is the choice left to you and not a question of extending the period of repayment. I submit that I have clearly shown that that is the true position and all those who have spoken in the interest of the poor people, of the impoverished people, of the hungry people, let them consider the position. Are they going to deny the future Government and the future Legislature the power to take up schemes for the betterment of the country by reason of the mere apprehension that the future Legislature will not be able to safeguard the interests of the masses and will allow the Government without any justification whatsoever to impose the

maximum levy when it is possible to impose a levy of a lesser amount? That is the proposition before the House. Please bear in mind that by deciding now to limit the levy to 33 per cent., what you are going to do is to make the Act absolutely unworkable and you do not allow anything to be done.

Sir, somebody has asked why it is that Government is in such a hurry to get the Bill passed; why not get it done under the new Constitution? To that my answer is that if you wait for one year, it is not merely a question of waiting, but a question of retarding the progress and development of the province for at least 5 years. For, your river-training work could not be taken up in the mean time; the technical laboratory, viz., the hydraulic laboratory, could not have been established in the mean time during all these years, if the Bill is not passed now. Whereas if this Bill is passed now, I hope it will be possible to take up these preliminary matters and there will be a possibility of making a start under the Bill, and the Irrigation Department could go ahead with working out suitable schemes in the hope of their being given effect to as soon as possible. But, unless this Bill is passed, what is the use of river-training work, what good is it to establish a technical, a hydraulic laboratory when there were no schemes or projects to take up? It was only when Mr. Townend conceived the brilliant idea of imposing a levy on the net profits that it was at all possible to think of big irrigation schemes in Bengal. Take the question of the improvement of Central Bengal. Jessore alone would cost 8 to 10 crores of rupees—nothing less than that. Was it ever possible to think of taking such improvement schemes without the financial provisions that have been made in this Bill? That is why I say, Sir, that by passing the Bill now it will be possible to do the spade work and establish a hydraulic laboratory and other things and start working out schemes now. Research work does not show any results in six months or one year and it might take as long as 6 years; so that if we were to take action now, we could get results sooner. (DR. NARESH CHANDRA SEN GUPTA: What is the idea? Six years?) I consider that this amendment is of vital importance to the Bill, and all the hope that lies behind the Bill will be frustrated and disappointed if this Council will not trust the Government and the Legislature of the future. I have already pointed out that those people who have spoken so vehemently, so eloquently, and so passionately, in favour of the poor people, the distressed, starving people in the villages, they should be the first——

Mr. NARENDRA KUMAR BASU: Sir, is the Hon'ble Member in order in referring to the members of this Council as "those" people?

Mr. PRESIDENT: I am afraid you have no other object than to interrupt the Hon'ble Member. (Laughter.)

The Hon'ble Khwaja Sir NAZIMUDDIN: I am sorry I have offended Mr. Basu. Those hon'ble members should be the first to pass this Bill because in this Bill only lies the hope for the future. Supposing the Bill is thrown out or dropped, what would be the position? The position would be that nothing could be done. As our present finances are, Mr. Narendra Kumar Basu will surely realize that no new work at all can be undertaken, and that is why we have got to find out ways and means for taking up beneficent schemes.

(Here the Hon'ble Member reached the time-limit but was allowed to continue.)

Therefore, I appeal to the members of this House to support my amendment and reject all others moved for reducing the rate of the levy, because Government consider this amendment to be of vital importance to the Bill.

The amendment of Maulvi Abul Quasem that in proposed clause 8(*1*), in lines 4 and 5, for the words "from time to time" the words "from year to year" be substituted, was put and lost.

The amendment of Balm Kishori Mohan Chaudhuri that in the proviso to proposed clause 8, in lines 1 and 3, for the word "one-half" the word "one-fifth" be substituted, was then put and lost.

The amendment of Maulvi Tamizuddin Khan that in the proviso to proposed clause 8, in lines 1 and 3, for the word "one-half" the word "one-third" be substituted being put, a division was taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Bazzber.
Bakah, Maulvi Syed Majid.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Maulvi Abdul Ghani.
Chowdhury, Maulvi Nurul Absar.
Fazlullah, Maulvi Mohammad.
Hoque, Kazi Emdadul.
Hossain, Maulvi Mohammad.
Khan, Maulvi Tamizuddin.
Maiti, Mr. B.
Mitra, Babu Sarat Chandra.
Momin, Khan Bahadur Mohammad Abdul.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Sah Lal.
Poddar, Mr. Ananda Mohan.
Rahoom, Mr. A.
Rahman, Khan Bahadur A. F. M. Abdur.
Rahman, Maulvi Azizur.
Raikat, Mr. Prasanna Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hossni.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Bahadur Akshoy Kumar.
Sen Gupta, Dr. Naresh Chandra.
Singh, Srijut Taj Bahadur.
Tarafder, Maulvi Rajib Uddin.

NOES.

Akai, Nawabzada Khwaja Mohammad, Khan Bahadur.
Ahmed, Khan Bahadur Maulvi Emaduddin.
Arthur, Mr. C. G.
Bakah, Maulvi Shaik Rahim.
Dal, Babu Lalit Kumar.
Dai, Rai Bahadur Sarat Chandra.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Babu Jatindra Nath.
Basu, Mr. S.

Chanda, Mr. Aparva Kumar.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizar Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Cooper, Mr. C. G.
Das, Babu Saruprasad.
Faroqui, the Hon'ble Nawab K. G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. N.
Hakim, Maulvi Abdul.
Haider, Mr. S. K.
Haque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Hussain, Maulvi Latafat.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razaur Rahman.
Lamb, Mr. T.
Leeson, Mr. G. W.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
MacGlashkie, Mr. E. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Nag, Rev. B. A.
Nazimuddin, the Hon'ble Khwaja Sir.
Norton, Mr. H. R.
Quasem, Maulvi Abdul.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. N.
Roxburgh, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sachse, Mr. F. A.
Sen, Rai Bahadur Jogesh Chandra.
Shah, Maulvi Abdul Hamid.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Sulaiman, Maulvi Muhammad.
Steven, Mr. J. W. R.
Stevens, Mr. H. S. E.
Suhrawardy, Mr. H. S.
Thompson, Mr. W. H.
Townsend, Mr. H. P. V.
Walker, Mr. J. R.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.

The Ayes being 33 and the Noes 63, the motion was lost.

The following amendments were then put and lost:—

That to the proviso to proposed clause 8 (*1*), the words "whichever is less in money value" be added.

That after the proviso to proposed clause 8 (*1*), the following further proviso be added, namely:—

"Provided further that the rate so fixed shall not in any case exceed one rupee and four annas per acre of land."

That after the proviso to proposed clause 8 (*1*) the following be inserted, namely:—

"Provided further that the rate so fixed shall in no case exceed the rent payable for the lands for which the improvement levy is to be imposed."

That after the proviso to proposed clause 8 (*1*) the following proviso be inserted, namely:—

"Provided further that the improvement levy shall not be imposed in a year during which crops of land in any notified area have been damaged by flood, or drought or insects or by any other causes, so as to leave no increased profits to the occupiers of land in any such area."

The following motion of the Hon'ble Khwaja Sir Nazimuddin was put and agreed to.

That for sub-clause (*1*) of clause 8 (excepting the Explanation) the following be substituted, namely:—

"(*1*) Notwithstanding anything contained in any other Act the improvement levy shall be imposed in respect of agricultural lands within a notified area at such rate or rates as the Local Government may, by notification, from time to time declare, and different rates may be so declared for classes of land of different descriptions, or having different advantages:

"Provided that any rate so fixed shall not exceed one-half of the estimated net increase, resulting from the improvement work, in the profits or one-half of the net value of the estimated increase in outturn.

Such improvement levy shall be payable by the occupiers of such lands within the notified area."

Dr. NARESH CHANDRA SEN GUPTA: Sir, what about motion No. 276 which stands in my name?

Mr. PRESIDENT: I find that it is inconsistent with the clauses that have been accepted by the House. So you cannot move it.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that in clause 8 (*1a*), in line 1, after the word "rate" the words "or rates" be inserted.

Sir, it is only a consequential amendment.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that in clause 8 (*2*), in lines 1 and 2, for the words "increased profits" the words "increase in the profits" be substituted.

Sir, it is an obvious amendment.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that in clause 8 (*2*), in the last line, after the word "price" the words "or prices" be inserted.

Sir, it is a consequential amendment.

The amendment was put and agreed to.

Maulvi TAMIZUDDIN KHAN: I beg to move that for clause 8(*4*), the following be substituted, namely:—

(*4*) Without prejudice to the generality of the power conferred by sub-section (*3*) the Local Government may, under that sub-section,

declare that any person who under the system generally known as "*adhi*", "*barga*" or "*bhag*" cultivates the land of another person on condition of delivering a share of the produce to that person or receiving a share thereof from him shall be deemed to be an occupier."

Sir, what I want in this amendment is that the clause as it stood in the original Bill should be substituted. The original clause was amended by the Select Committee and I object to the amended clause. My reason is that the clause as it stood originally is far more practical and convenient than the clause as amended by the Select Committee. Sir, this question relates to whether the *bargadars* or *adhiars* should be regarded as occupiers which means whether they should also be made to pay a share of the levy along with the owner of the lands. That is the question involved in this amendment. As far as *bargadars* are concerned, probably the hon'ble members of this House will remember that 7 years ago we, by our performance on the floor of this House, killed the *bargadars* practically speaking, and under the present law the *bargadars* have no status in the land; they are mere labourers. They cannot hold the land beyond the period for which the owners will allow them to do so. Therefore, it comes to this, that these *bargadars* are at present nothing but day labourers. Of course, there are some old *bargadars* who acquired tenancy rights under the old law. These excepted the vast majority of *bargadars* are mere labourers. Now, I do not mean that in no circumstances the *bargadars* should be made to pay any levy. I wish no one will misunderstand me on this question. The clause, as it stood, was more convenient because there it was stated that it will be in the power of Government to decide whether a particular class of *bargadars* should be regarded as occupiers of the land along with the owners in the particular circumstances of a case, whereas the present proposal is that in all cases these *bargadars* would be regarded as occupiers and should be made to pay a share of the levy. I submit that if these *bargadars* are to pay a share, it may be argued that the day labourers also should pay a share. The Government position is that *bargadars* will share an increased profit and why should they not pay a portion of the profit? The same argument may apply in the case of day labourers. If a particular area is developed, the wages of labourers will go up and the day labourer will earn more than he did before. Therefore, it is only logical that the day labourers should also pay a levy. But you are not going to impose a levy on them and rightly so. The same may be said in favour of *bargadars*. He is also in the same position as a day labourer. Why should we make a hard-and-fast rule that in all cases they should be made to pay. If this is done various difficulties will arise. Who are these *bargadars*? If tenants in general are poor these *bargadars* are poorer still. There is no doubt about that. Some of these *bargadars* have no land, have no cattle,

no ploughs of their own. They borrow or hire these from their neighbours and cultivate one or two *bighas* of lands. How will levy be made against these people? How will you realise? How will the Public Demand Recoveries Act apply against them? These are difficulties which should be carefully considered and the clause should be restored to its original form. With these words I commend my motion to the acceptance of the House.

Mr. H. P. V. TOWNEND: This amendment on the face of it is very plausible because the Hon'ble Member who has moved it proposes to restore the wording of the original draft Bill and can argue that Government should go back to what they originally thought to be right. I can only say that the Select Committee thought the present wording to be better drafting, that Government have accepted their view and that no good reason for departing from it has been brought forward. It is always difficult to go back on what has been agreed upon by a Select Committee; and it raises endless difficulties if changes are made lightly. In this case, Mr. Tamizuddin's motion would work to the prejudice of the *bargadar*. This is not what he intends. There is a considerable body of opinion which is in favour of the *bargadar*: Mr. Tamizuddin shares this opinion and thinks that if the clause is worded as in the amendment it would make the *bargadar* more definitely an occupier and would improve his position. Under the Bengal Tenancy Act, as it now stands, most *bargadars* are not tenants; but there would be no justification for including anything in this Bill merely because it would improve something in the Tenancy Act.

But there is a further point. Maulvi Tamizuddin says "let us have the Bill as it stood before"; but unfortunately he has not recommended that the words which originally stood in sub-clause (3), giving power to Government to declare what proportion of the improvement levy should be paid by different classes of occupiers, should be reinserted or restored there; and he does propose to leave out the analogous provision inserted by the Select Committee here in clause (a). The position would be that we would not be able to say how much of the levy the *bargadar* would have to pay; and he might then have to pay the whole of it. The suggestion in this amendment is that the *bargadar* is the sole occupier and that the landlord, or employer, is not going to pay anything at all. Thus the *bargadar* might have to pay the whole of the levy while getting only half of the increase.

I oppose this on behalf of Government.

The amendment was put and lost.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that to clause 8, the following sub-clause be added, namely:—

"5. In the case of any land, the amount of improvement levy realised for any year—

(a) in respect of the Bakreswar Canal shall not exceed four rupees eight annas per acre;

(b) in respect of the Damodar Canal and the Eden Canal shall not exceed five rupees eight annas per acre:

Provided that in the case of any land which was irrigated from the Eden Canal in any year during the ten years prior to the first day of April, 1935, such amount shall not exceed three rupees eight annas per acre."

I have very little to add. These maximum rates fixed, subject to the proviso of 50 per cent. maximum profit, have been fixed in view of the fact that the Damodar and Bakreswar Canals were constructed before this Act came into force and a differentiation can be made between these two schemes and any new scheme that may be taken up under the Act. The reason for this differentiation between the Eden and Damodar Canals is that the Eden Canal has been in existence for a long time and the amount of increased profit will be much less than what it will be in the case of the Damodar Canal. These are the reasons why Government have agreed to make a differentiation in the case of these canals. I hope the members will kindly accept this amendment.

The amendment was put and agreed to.

Clause 8.

The motion that clause 8, as amended, stand part of the Bill was put and agreed to.

Clause 8A.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that for clause 8A the following be substituted, namely:—

ditional prove-nt levy certain ns.

8A. (1) Notwithstanding anything contained in section 8, if in any notified area any unculturable waste, swamp, or sand has, as a result of an improvement work, become culturable land, and such land is thereafter settled with any tenant, the person who settles the land shall be liable to pay, in one sum, an improvement levy of such

amount as may be fixed by the Collector, in accordance with rules made under this Act, after considering any objection that may be made in the prescribed manner by such person.

(2) The amount fixed under sub-section (1) shall not exceed one-half of the difference between—

(a) the amount which the Collector estimates to be the usual *salami* for a like area of land, in the vicinity, similar in its description, and its advantages to the land as it is at the time of the settlement, and

(b) the amount which the Collector estimates to have been the usual *salami*, before the commencement of the improvement work, for a like area of land, in the vicinity, similar in its description and its advantages to the land as it was at that time.

Such levy shall be additional to the levy payable under section 8 by the occupier of the land.

Mr. NARENDRA KUMAR BASU: May I with your leave move a short-notice amendment? I ask that in sub-clause (2) the words "of the difference between" in line 2 and the letter and bracket in the third line and the whole of clause (b) be deleted. That is to say the second clause will read thus:—

"The amount fixed under sub-section (1) shall not exceed one-half of the amount which the Collector estimates to be the usual *salami*, at the time of the settlement for a like area of land of a similar description and with similar advantages in the vicinity."

This, I submit, is merely a drafting amendment.

Mr. PRESIDENT: I admit your amendment. This and the amendment moved by the Hon'ble Member will be discussed to-morrow, as I have to adjourn the House now.

Adjournment.

The Council was then adjourned till 3 p.m. on Friday, the 9th August, 1935, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 9th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Ministers and 93 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Government of India grant for rural uplift.

***25. Rai Bahadur SATYA KINKAR SAHANA:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) what amount Bengal has received as her share of one crore of rupees sanctioned by the India Government for rural uplift all over India;

(*ii*) whether that money has been allotted to the several districts of the province; and

(*iii*) whether the Government of Bengal have prepared a scheme for the purpose and directed the district authorities to act up to that scheme?

(*b*) If any allotment has been made and a scheme has been prepared, will the Hon'ble Member be pleased to state what they are?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) (*i*) Bengal will receive Rs. 16 lakhs.

(*a*) (*ii*) and (*iii*) and (*b*) The member is referred to the Memorandum explaining the manner in which it is proposed to spend this Rs. 16 lakhs which has already been issued to members of the House.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the sanction of the Bengal Legislative Council will be necessary for incurring any expenditure in this connection?

The Hon'ble Sir JOHN WOODHEAD: No, Sir.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether the amount of Rs. 16 lakhs will be equally divided among the items or there will be different allotments for different items?

The Hon'ble Sir JOHN WOODHEAD: I would refer the member to the Memorandum already issued.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the money will be spent by the Transferred Departments concerned, or by the Finance Department of the Government of Bengal?

Mr. PRESIDENT: I think you can find that out from the Memorandum itself.

The Hon'ble Sir JOHN WOODHEAD: Yes; that information is obtainable from the Memorandum.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether if the amount is to be administered by the Transferred Departments of the Government of Bengal, any discussion is possible in this Council as regards its expenditure?

The Hon'ble Sir JOHN WOODHEAD: There is to be a discussion on this question.

Fencing Abdulpur-Nawabganj Railway line.

***28. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether it is a fact that a large number of cattle including cows and buffaloes die each year run over by trains in the Abdulpur-Nawabganj Railway?

(*b*) Is it a fact that there is no wire fencing on both sides of the said railway?

(*c*) Is it a fact that the railway was opened about 6 years ago?

(*d*) If the answer to (*b*) is in the affirmative, will the Hon'ble Member be pleased to state the reason why such fencing could not be provided for within this long time?

(*e*) Are the Government considering the desirability of providing fencing in the railway line within this year? If not, when?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Sir John Woodhead): (*a*) The number of cattle run over in 1933-34 was 3 and in 1934-35 was 8.

(*b*) Except at certain stations, important road crossings and in sections passing through a few congested areas where fencing has been provided, the line is unfenced.

(*c*) Yes.

(*d*) The railway has been built to the requirements of a standard "C" line.

(*e*) No such action is in contemplation.

Maulvi SYED MAJID BAKSH: With reference to answer (*d*), will the Hon'ble Member be pleased to state whether it is provided that standard "C" line should be left unguarded to be a constant source of danger to the public?

The Hon'ble Sir JOHN WOODHEAD: I assume, Sir, that standard "C" does not provide fencing throughout the length of the line.

Resolutions of Lawyers' Conference.

***27. Rai Bahadur AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether he has perused the resolutions passed in the All-Bengal and Assam Lawyers' Conference held in the Albert Hall, Calcutta, on the 1st and 2nd July last?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether the Government are considering the desirability of redressing the grievances of lawyers ventilated through those resolutions?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) Some press reports about the resolutions came to the notice of Government.

(*b*) Government have no present intention of taking any steps in the controversial matters covered by the resolutions.

Rai Bahadur AKSHOY KUMAR SEN: With reference to answer (*b*), will the Hon'ble Member explain what does he mean by the word "controversial", and to whom the controversy refers to?

The Hon'ble Sir BROJENDRA LAL MITTER: Controversy between the legal profession and the lay public, controversy inside the legal profession, controversy between the politician and the non-politician, and all manner of controversies.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Purchase of Bengali products.

15. Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member in charge of the Commerce Department be pleased to state whether the Government are considering the desirability of directing—

(*i*) that in all Government purchases Bengali products should be given preference; and

(*ii*) that in letting out Government contracts, preference should be given to Bengali contractors?

MEMBER in charge of COMMERCE DEPARTMENT (the Hon'ble Sir John Woodhead): (*i*) The attention of the hon'ble member is invited to the Resolution of the Government of Bengal in the Commerce Department No. 7900Com., of the 2nd August, 1935, a copy of which has been placed on the library table.

(*ii*) No.

Rai Bahadur KESHAB CHANDRA BANERJI: Does the Hon'ble Member think that the terms of the Government Resolution do not go far enough towards encouraging the industries of the country?

Mr. PRESIDENT: I am afraid I do not understand the question. Do you want the Hon'ble Member to express his opinion on the question?

Rai Bahadur KESHAB CHANDRA BANERJI: I want to know the definite policy of Government because 5 per cent. has been fixed in the Government Resolution under reference.

The Hon'ble Sir JOHN WOODHEAD: It is impossible to give an answer to that question except to say, Government have already expressed their opinion in the Resolution.

Rai Bahadur KESHAB CHANDRA BANERJI: Is not the limit of 5 per cent. fixed in the Government Resolution inadequate, having regard to the importance of the question?

(No answer.)

Appointment of Scheduled Caste Bengali Hindus as constables.

16. Rai Bahadur AKSHOY KUMAR SEN: Will the Hon'ble Member in charge of the Police Department be pleased to-lay on the table a statement showing for each of the years commencing from 1930 up to 1934—

(*i*) the number of constables appointed in each of the districts within the Dacca Division; and

(*ii*) how many of them belong to the Scheduled Castes of Bengali Hindus?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*i*) and (*ii*) A statement is laid on the table.

Babu JITENDRALAL BANNERJEE: Has the Hon'ble Member noticed the progressive diminution in the percentage of scheduled caste recruits in the Faridpur district, and is there any explanation for that?

The Hon'ble Mr. R. N. REID: Yes, Sir. The explanation is that in 1930, an experiment was tried in recruiting Namasudra constables to the Armed Police. They proved to be a failure, and they were, therefore, not recruited subsequently.

Statement referred to in the reply to unstarred question No. 16 showing the number of constables recruited in each of the districts of the Dacca Division during the years 1930-34 and how many of them belong to the Scheduled Castes of Bengali Hindus.

District.	Total number of constables recruited.					How many of the recruits belong to the scheduled castes of Bengali Hindus.				
	1930	1931	1932	1933	1934	1930	1931	1932	1933	1934
1	2	3	4	5	6	7	8	9	10	11
Dacca .. .	305	160	108	145	78	..	..	1	..	1
Mymensingh . ..	223	240	123	72	63	..	..	..	..	..
Bakarganj	74	146	52	52	105	1	1	..	1	..
Faridpur	202	60	35	44	39	64	16	3	1	1
Total ..	804	606	318	313	285	65	17	4	2	2

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(Discussion on the Bengal Development Bill, 1935, was then resumed.)

Mr. PRESIDENT: The House will remember that last night when I adjourned the House, there were two amendments before it, one was moved by the Hon'ble Member in charge of the Bill and an amendment to that amendment was moved by Mr. Narendra Kumar Basu. Mr. Basu may now speak on his amendment.

Mr. NARENDRA KUMAR BASU: In moving this amendment, I think it would be better to lay before the House section 8A as it stood before this amended motion was placed before the House by the Hon'ble Member, and also the clause as it is now proposed by the Hon'ble Member The House will remember that clause 8A refers to additional improvement levy in certain cases, and the original clause, as it came out of the Select Committee, was that it authorised the imposition of the improvement levy on the *salami* received by the landlord or the *raiyat* for settling the land after an improvement has been effected, and to that there were two clauses (*a*) and (*b*), the difference between which was sought to be the amount assessable. Now, in place of the *khas* land of the landlord or the *raiyat*, the clause is limited to any unculturable waste, swamp or sand; the other *khas* lands of the landlord or the *raiyat* not included in this clause nor are they included anywhere else, but still the two clauses (*a*) and (*b*) have been retained. The two clauses (*a*) and (*b*) are that the imposition is to be on the difference between (*a*) the amount which the Collector estimates to be the usual *salami* at the time of the settlement, for a like area of land similar in description and advantages in the vicinity. Sir, stopping there for one moment, my submission is that that is certainly a sum which is not ascertainable by any human ingenuity because a similar area is to be an unculturable waste, swamp or sand in

the vicinity, and if there is no other unculturable waste, swamp or sand, and it is only a big waste land in the middle of a big area, I do not know with what the comparison is to be made. I submit again that the amount referred to in sub-clause (*a*) is an unascertainable sum and there cannot be any usual *salami* in cases like that. But if clause (*a*) is bad enough, clause (*b*) does not mean anything excepting that it has got five or six lines for itself. Clause (*b*) is an amount which the Collector estimates to have been the usual *salami* before the commencement of the improvement work, for a like area of land in the vicinity similar in description and advantages to the land as it was at that time, that is to say, before the improvement when the land was an unculturable waste, swamp or sand. The Collector is to ascertain the usual *salami* for such land, and this means that you really have got to deduct zero from an unascertainable amount. So far as the unascertainable amount in clause (*a*) is concerned, if that satisfies the landlord and the Government, there is nothing to say about it. But I cannot understand why clause (*b*) which really means zero in every case will be there to disfigure the statute book merely. I think the only reason for the retention of this clause is that it was in the printed report of the Select Committee. As we have seen from the speeches of the Hon'ble Member during the last few days, he has got some spasm in his heart and tenderness for the report of the Select Committee, but the Hon'ble Member has forgotten that at the Select Committee stage these words were necessary, but in the case merely of the unculturable waste land or swamp, there can be no such thing as the usual *salami* before the commencement of the improvement work for the like area of land with similar advantages or disadvantages in the vicinity. My proposal, therefore, is that clause (*b*) be deleted and that the words "difference between" be also deleted.

Mr. JATINDRA NATH BASU: Mr. President, Sir, Mr. Narendra Kumar Basu has overlooked the fact that in the discussion that we had on this Bill, the question of imposing a levy on non-agricultural land has been attracting our attention. But as Government has now agreed to exclude non-agricultural lands, the provisions of the Bill are now directed towards the imposition of a levy on agricultural lands. Therefore, *khas* lands, whether they belong to the cultivator or to the landlord, are free from levy, if it is not used for agricultural purposes. Mr. Basu was very keen about homestead lands but his attitude is just the opposite of what he then urged. This clause concerns such land as was previously unculturable, but which may become culturable by reason of the improvement going to be effected. This is, therefore, a different proposition altogether, and the levy will be imposed on the land provided it becomes cultivable. Therefore, the principle is entirely

different, and the amendment which the Hon'ble Member has proposed is not in accordance with the principle that we have already adopted. As regards the two clauses, they follow the procedure that was adopted by the Select Committee in regard to clause (*a*), that is to say, the amount of levy will be the difference between the rate of *salami* before the improvement and the *salami* after the improvement. Sir, the difficulty that Mr. Basu anticipates about framing an estimate is a difficulty that attaches to almost every estimate as regards land values, but the estimates have to be prepared on a proper and practical basis, and that basis is taken to be the value that is calculated in respect of similar land in the neighbourhood or some kind of land in similar tracts of country. That is the basis of assessment, and there will be no difficulty in working it out in practice. I, therefore, oppose the amendment moved by Mr. N. K. Basu, and support the amendment of the Hon'ble Member.

Babu JITENDRALAL BANNERJEE: I do not understand the difficulty that has been perplexing the mind of Mr. J. N. Basu. In point of fact, Mr. Narendra Kumar Basu's amendment is not an amendment of substance. It is a drafting amendment, and, as such, it is quite proper and suitable. Of course, everybody will agree that the basis of the levy will be the difference between the *salami* of the improved land and the *salami* of the unimproved land—that is quite true. But so far as this unimproved land—waste, swamp, sand or jungle—is concerned, does it fetch any *salami* at all? That is the sole point. It has no yielding value and consequently no *salami*. Therefore, the difference is between zero and something. It is a clumsy piece of drafting as Mr. Narendra Kumar Basu has pointed out, and the Hon'ble Member is bound to agree with him.

Maulvi TAMIZUDDIN KHAN: Sir, I oppose the amendment moved by the Hon'ble Member in charge of the Bill, and incidentally I must say that I am in favour of the clause as it stands in the report of the Select Committee. In the Select Committee, it was recommended that all kinds of lands in the *khas* possession of a person, if improved on account of any improvement work made by Government, and subsequently let out on increased *salami*, will be subject to a levy, and the levy will be half the difference between the *salami* that was prevalent before the improvement work was effected and the *salami* that the land brought after the improvement work was effected. That was the clause in the Select Committee's report. Sir, I do not know the reason why the Government wants to change that clause to the form in which it has been moved by the Hon'ble Member. Yesterday, the Hon'ble Member in charge of the Bill was in a difficulty in finding out what was the actual compromise with the landlords that I spoke about and he wrongly referred to the Damodar Canal, although I did not say anything about that at all. The Hon'ble Member conveniently forgot

that this was the compromise entered into between the Government and the *zemindars*, that I meant when I spoke yesterday, so far as the levy is concerned. I must make it clear to the Hon'ble Member that I for myself am not against an honourable compromise. An honourable and just compromise should always be welcome, but the question is whether the compromise that has been made in this instance is just and fair. I maintain that it is an unjust compromise because if this amendment is accepted, as moved by the Hon'ble Member, only unculturable wastes, swamps or sands, if these become culturable on account of an improvement work, will be subject to the imposition of a levy, but there will be no levy on the *khas* lands in the possession of landlords, even though these are likewise improved and let out at increased *salami*. These *khas* lands will also be improved as a result of improvement works, and the increased *salami* that the landlords will get when they will let out those *khas* lands after the improvement works have been effected, will be wholly appropriated by the *zemindars*. In fairness and justice, why should they not pay a portion of the increased profit to Government? That was exactly the Select Committee proposal, but that has been turned down by Government. Perhaps it may be said that all cultivable lands have already been let out to tenants and there are no *khas* lands in the possession of the *zemindars* to be let out after the improvement works will be effected. I beg to submit, Sir, that that will be a misstatement of facts. There are big areas of *khas* lands in the possession of *zemindars* everywhere in the province and these will bring enormous profits to the *zemindars* when they are improved. Then the Select Committee clause also provided that if after an improvement work was effected, if any land comes into the possession of a person, some levy will be made on that land on the basis of the increased *salami* but according to the compromise that has been entered into, that cannot be done. In the district of Nadia where the *utbandi* system prevails, the tenants in many parts of the district are tenants at will, and they have no permanent interests in their land. As soon as an improvement work is effected, the *zemindars* will be tempted for their own personal interest to eject the tenants wholesale and obtain *khas* possession of their lands and let them out again on an increased *salami* and appropriate the whole *salami* to themselves without paying a single pice to Government. Is it just? Is it fair? Is it proper? I, therefore, submit that this compromise has been entered into by Government with the *zemindars* without any regard to justice and fairness. Sir, when the grievances of the tenants are set forth, the Government is always reluctant to show a spirit of compromise, but it is otherwise when the question relates to landlords. My submission is that this clause is unjust and it must be rejected.

Rai Bahadur SATYA KINKAR SAHANA: I think that the amendment moved by Mr. N. K. Basu is based on the assumption that an unculturable waste, swamp or sand has got no *salami* value. But that

is not the actual state of things. Unculturable land in Bengal is divided into two classes, *Layek-Patit*, and *Garlayek-Patit*. The first implies land which can be easily converted into cultivable land, and the second, land which can be converted into cultivable land with great difficulty. But some *salami* is charged in respect of such lands when settled with *raiyats*. As for swamps, they yield something to the landlord, and as such fetch some *salamis*. These swamps are generally leased out to fishermen and for raising *pantfal*, *keshur* and other things. As for sands, these are generally found on the banks of steep rivers like Damodar, Darakeswar and similar others. During the flood time, some lands are covered with sands, and afterwards when the flood subsides, *kas* grass grows over them which are used by the poor people for thatching their huts. Such lands, therefore, are also subjected to some sort of payment by the landlords. Therefore, I think that Mr. Basu's contention that these lands do not fetch any *salami* is not correct.

As for Mr. Tamizuddin Khan's contention that Government have entered into an unjust compromise with the landlords in giving up the *salami* for lands which are *khas*, I think that question has been sifted may times, and if the intention of the Maulvi Saheb and his friends is not to do injustice to the landlords, then the amendment moved by the Hon'ble Member should be accepted.

Raja Bahadur BHUPENDRA NARAYAN SINHA, of Nashipur: I am sorry I cannot see eye to eye with what Mr. Tamizuddin Khan says regarding the compromise with some class of people, and this amendment of the Hon'ble Member in charge being the result of the compromise. As a matter of fact, the present amendment is undoubtedly an improvement on the new clause introduced by the Select Committee. Sir, when the Bill was introduced, there was no question of *salami*. The Hon'ble Member in charge of the Bill, when introducing the Bill, clearly stated that the tax would be charged on the profits to be derived by way of rent and that the amount of the tax will be one-half of that profit. There was no question at that time that the additional tax would be charged on the *salami* or the so called profit.

No one can deny that this is an additional imposition made by the Select Committee on their own accord. The other day when the question of recommittal was being discussed in this Council, the Hon'ble Member actually pointed out that the Select Committee had gone beyond the principles of the Bill in respect of this clause only and not in respect of other clauses. (MR. NARENDRA KUMAR BASU: He never said that.) He has said so. You may refer to his speech. However, whatever that might be, I do not like to discuss that principle now. But still I must say that when the draft Bill was introduced there was no indication of any *salami* such as is proposed to be levied now.

The public was surprised to find this new principle so introduced by the Select Committee.

Sir, as regards Mr. Basu's remark, as my friend Rai Bahadur Satya Kinkar Sahana has already said, it cannot be denied that there is always some value attached to every land whether a swamp or sand or anything else. The question may be asked as to why these lands have not been settled; to that my answer is that these lands have not been settled because the *salami* will be so small that the landlord would not like to settle them. It may be a few annas or more. Even if it fetches a very little sum, there is no reason to omit clause 8A (*2*) (*b*).

Mr. Basu has admitted that he is neither a tenant nor a landlord; so it is better for him not to muddle with questions of which he has no practical knowledge. His suggestion clearly shows that he has no knowledge about land and tenure. I would request him to be satisfied with other matter relating to other questions of which he is an expert, specially with regard to legal questions. He should not interfere with land question in future so as to mislead the House.

Sir, it cannot be denied by any members of the House that the Hon'ble Member's amendment is appropriate and a distinct improvement on the Select Committee's proposal. There are some members who have opposed the Hon'ble Member's amendment on the ground that it will affect the vital interest of cultivators. I cannot see eye to eye with their motive. Tenants will not be gainer if the amendment be accepted, nor will they be looser if the amendment be rejected. This main amendment if carried into effect, will not touch the pockets of the tenants. They will have to pay the rates whether this amendment be carried or not. The so-called representatives of the tenants here do not represent their real views. Tenants do not, I can assure you, Sir, like to see that their superior landlords are taxed. They have no grudge against their landlords. It is only these people here who assume to be the representatives of the tenants, but have no sympathy for them or hearts for them and who having formed a so-called Tenant-party have taken this attitude, which is far from the attitude of the real cultivators. These gentlemen are trying to make water tight compartments between the landlords and tenants and thus to create an ill-feeling between them.

The question of *salami* does not improve the tenants' position, on the other hand, it will deteriorate their condition. Unless one has a personal grudge against the landlords as a class, this amendment cannot be opposed on the ground that all cultivated land should also be included. I would ask these people not to speak on behalf of the tenants when they have no idea about their interest or when they do not represent their real grievance.

Sir, for the sake of the tenants, I may say that if *salami* be imposed on all lands, the tenants are the only persons who will suffer most. When a holding is settled there are cultivated land and uncultured land. It is wrong to suppose that a *khas* land always belongs to a landholder. If you would take a statistics, you will find that in every holding of a tenant there are *khas* lands and their numbers and their area are far greater than that belonging to landlord. A landlord does not keep *khas* lands for himself without being let out. The few plots that are let unsettled are due to inferiority in quality or their area is so very small that it is not worth while to take settlement. Therefore, practically this amendment will affect the tenants mostly. If the rate of *salami* be increased tenure-holder or landlords will not be sufferers but the tenants will suffer most. (MAULVI TAMIZUDDIN KHAN: Shame.) Shame to you, you are advocating not on behalf of the tenants but out of your own way. Outwardly you appear to be tenant's friend but your actions will ruin them for ever. Therefore for the sake of the tenants it is desirable that the *salami* should be as low as possible.

Sir, with these words I oppose the amendment of Mr. N. K. Basu and support the motion of the Hon'ble Member.

Mr. NARENDRA KUMAR BASU: May I put a question to you, Sir? May I not speak on the amendment moved by the Hon'ble Member? I moved my own amendment, but I understand that both the amendments are open to discussion now. So, may I not get an opportunity to speak on the Hon'ble Member's amendment after the next speaker has spoken?

Mr. PRESIDENT: Yes, but while you spoke on your own amendment you could have spoken on the Hon'ble Member's amendment to save the time of the Council.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, it seems to me that so far as clause 8A, as amended by the Hon'ble Member, is concerned, there is not much objection. But what I find is that something which was in the original clause 8A, as amended by the Select Committee, has been left out in the new 8A, i.e., the *khas* lands of the landlord which are not at present being cultivated or are not capable of being cultivated, have been omitted. What is said here in new clause 8A is this: that is land which was unculturable or a waste before but is benefited by the improvements effected, then the landlord when he settles that land must pay a share of the *salami* which he is realising from the *raiyats*. This is perfectly just and perfectly right But what happens in the case where a landlord has *khas* land, which was of a very inferior quality, although culturable, but by reason of the improvements effected it is benefited and becomes valuable and is now settled with the *raiyats*. It is not likely that the *raiyat* will pay increased rent, but, as always happens in such cases, he will pay a

very handsome *salami*. It is perfectly fair, therefore, that a portion of the landlord's unearned income, which he gets by way of *salami*, should be paid by him. In clause 8A, as it stood, after the Select Committee had reported on it, this was provided for. It not only covered non-agricultural and waste lands but also lands which were in *khas* possession of the landlords and the tenants. In the amendment that has been submitted now it is only the swamps and sands and culturable wastes about which mention has been made. My point is that we are willing to support new 8A with the addition that the *khas* land of a landlord which is improved by this improvement measure and which is settled by taking a big *salami*, should also be brought under new clause 8A; or, in other words, landlords must pay a share of the *salami* which they get on account of the lands having been improved by this improvement levy. In many cases, for instance in Jessore, there are big *bils* which cannot be said to be unculturable but which produce only very scanty crops, and for that reason they have been abandoned by the tenants, with the result that they have become *khas* lands of the landlords. They will now be improved by improvement works contemplated under this Act, and as soon as these lands are improved, there will be a great demand for them and landlords will get an enormous *salami* for settling them with the *raiyats*. But in the amendment as now proposed we shall not be able to touch the landlords at all. Therefore, what I suggest is a further amendment of clause 8A on the lines suggested by me, viz., that they should include also *khas* lands, which are culturable, within its scope.

Mr. NARENDRA KUMAR BASU: Sir, I want to speak on the motion of the Hon'ble Member to amend clause 8A of the Bill.

Mr. PRESIDENT: I have no objection, but I should like to impose on you one limitation, viz., that you are not to speak on your own amendment again.

Mr. NARENDRA KUMAR BASU: No, Sir. I will only speak on the amendment proposed by the Hon'ble Member. I take it, Sir, that this is an amendment to the Bill clause as it now stands, viz., the Select Committee's Bill, so that if the amendment now proposed is not accepted by the House, then the printed clause 8A comes in.

I submit, Sir, that there is absolutely no reason given by the Hon'ble Member as to why the new 8A should be accepted in place of the old 8A. The Hon'ble Member did not deign to give us a single reason in introducing his motion why this new amendment is necessitated, and I take it that he could not do so because of his conscience "that makes cowards of us all." He knows that this is an amendment which cannot be supported after the very big words he used about the help of the people in improving themselves. This amendment really means that the only class of people who will help in the development of Bengal will be the tenantry of Bengal and the landlords will enjoy

all the fruits thereof without their pockets being touched in any way. A previous speaker, the Raja Bahadur of Nashipur, has said that nobody who has not a personal grudge against a certain class of people can oppose the Hon'ble Member's amendment. He also put into the mouth of the Hon'ble Member the statement that the report of the Select Committee went beyond the provisions and intentions of the Bill as a whole. But, Sir, I do not remember that the Hon'ble Member ever made such a statement in this House. He could not, possibly, have said so, because he was the Chairman of the Select Committee and if the Select Committee were going beyond the provisions and intentions of the Bill, he would not have allowed the majority of the Select Committee to do that; for it was open to him to turn those proposals down as Chairman. So, I submit that it is absolutely wrong to say that the Select Committee went beyond the scope and intentions of the Bill. Secondly, the Raja Bahadur stressed the point that so far as the tenantry are concerned they will have to pay half the actual profits, but if you impose a levy on the *salami* obtained by the poor landlords, they will have to pay not half the actual profits but half of some problematic profits, because in his opinion the *salami* is something problematical—because the *salami* given out on the document will be something quite different from the actual *salami* charged. Sir, we are willing to take that risk. So far as the undisclosed part of the *salami* is concerned neither Government nor anybody else can touch that. But so far as the disclosed part of the *salami*, i.e., the actual *salami*, which is acknowledged by the landlord to have been received by him, so far as that is concerned, why should he not pay half of that? There is absolutely no doubt that this amendment which saw the light in this typed paper, I submit that this amendment is something which is due, I am very sorry to say, to backstairs influence and to the inclination of Government to help an influential class of people without any rhyme or reason or justification whatsoever. (Cries of question.) Sir, my hon'ble friend behind me (Mr. S. S. Ray) has still some of the touchiness of the class from which he springs, though he represents a rural constituency of Malda here. (RAI BAHADUR KESHAB CHANDRA BANNERJIA: But he is one of your followers.) Yes, he is usually a follower of mine in all just causes, but sometimes when he feels that it touches his skin he does not follow me.

My submission is that, so far as the Bill clause 8A is concerned, the Select Committee's report, I beg to remind the House, runs thus—

"We have inserted this new clause because we think that it will be impossible to prevent increased *salami* from being realized by landlords or *raiyats* where land benefited by improvement work is settled or resettled by them after the imposition of an improvement levy and that provision should be made for a part of the increase in the amount of *salami* obtainable by such landlords or *raiyats* being paid as improvement levy."

This decision of the Select Committee was reached by a majority of non-official members and official members abstained from taking part in the voting, and, so far as the notes of dissent of non-official members are concerned, the only remark has been put in by my friend Mr. Sarat Kumar Roy, where he says——

"It is doubtful if a landlord will succeed in realizing a *salami* in every case he makes a settlement of his *khas* lands with tenants. Hence, if the Collector imposes a levy on such landlord on the assumption that a *salami* is obtainable by him, the landlord will have to bear it from his own pocket."

Wonderful logic, Sir! And it is news certainly to most members of the House that if a land has been improved and becomes culturable—and why culturable—becomes more profit-bearing than in the past,—the landlord will not get any *salami* for it, but that he will have to put his hand into his pocket and bring out half the *salami*. I submit, Sir, that up till now what we have heard from the Hon'ble Member as well as from the Raja Bahadur of Nashipur regarding this amendment, is neither convincing, nor just, nor fair. I am quite sure that we shall have some reasons indicated by other members of this House and then the House will be able to judge.

Mr. SHANTI SHEKHARESWAR RAY: Well, Sir, it is very awkward to differ from one's leader but one must do so now and then. Mr. N. K. Basu has admitted before this House more than once that he does not own a single bigha of land. One expects, therefore, that he will take a disinterested view of things. What we find is that he is always prejudiced against the *zemindars*. (MR. NARENDRA KUMAR BASU: Please do not say that.)

Sir, so far as this amendment is concerned, I do not understand how it is going to benefit the landlords alone. It is a well-known fact that these waste lands or swamps or unculturable lands have belonged to tenants and *raiyats* too, because when lands are settled with tenants it often happens that they take settlement of cultivable lands as well. So, Sir, in a holding it may be that certain portion is cultivable and a portion waste lands. Therefore, if any benefit accrues from any improvement effected by the provisions of this Bill, it will also be availed of by the tenants. So the suggestion that this amendment is going to benefit the *zemindars* alone is nothing but a travesty of the facts.

Nawab MUSHARRUF HOSAIN: Sir, I want to make a few observations. Mr. Narendra Kumar Basu has drawn attention to the fact that *salami* is not usually paid when some lands are settled in different parts of the country. My friend, Mr. Sarat Kumar Roy, is

correct when he says that *salami* cannot always be realised from the tenants especially in places near the foot of the Himalayas as in the districts of Dinajpur and Jalpaiguri. I know also that in some cases neither the *zemindar* nor the tenure-holder gets any *salami* when he settles lands with a *raiyat* or under-*raiyat*. When my friend, Mr. Sarat Kumar Roy, said that *salami* cannot usually be realised from the tenant, he is, I submit, quite correct and I want simply to state this fact before the Council. I also support my friend the Raja Bahadur of Nashipur in all what he has said.

Babu JITENDRALAL BANNERJEE: Sir, there is one difficulty in dealing with this matter. The Hon'ble Member has not yet explained his reason,—the justification or the motive of his conduct—in making this important change in the report of the Select Committee. I should like to point out to him that by moving this amendment he is really imposing what I may call a self-denying ordinance on the Government. The Government is voluntarily abandoning a large and legitimate source of income. Why, for whose benefit? Certainly not for the benefit of the unfed, the hungry and the unclad on whose behalf the Hon'ble Member waxed eloquent yesterday, but only for the benefit of those who are well fed, well clothed and who are replete with all the good things of life.

The Hon'ble Member has said again and again that the underlying principle of the Bill is that, where a person gets any benefit from increased outturn, it is but fair that he should share it with the Government. Sir, I admit the fairness of this principle *in toto*. Where the benefit accrues to a tenant, let him share it with the Government. But, why should not the same principle be applied when the benefit accrues to the landlord? Why is the Hon'ble Member so reluctant to apply the principle here? The reason is perfectly plain. So far as the report of the Select Committee was concerned, the provision was that when *khas* lands, either in the possession of the landlord or of the *raiyat*, were benefited by the execution of an improvement work and these lands were relet, then the increase in the *salami* would be shared by the Government. That was absolutely fair, just and equitable. But why does the Government now make a sudden *volte face* on the floor of the House? Why does it seek to exempt the *zemindar* whose land has benefited by the execution of improvement work and is going to be re-let on a higher *salami*? The *zemindar* has not paid a single pice for the improvement; the money has come from the levy on the impoverished tenants and the *zemindar* benefits doubly by the increased rent as well as the increased *salami*. And yet, why should he be so reluctant to share the benefit with the Exchequer? But, why should the Government be so unduly lenient to him? What is the reason behind this? How can the Government make such a change? This is a point on which the House will like to have some explanation.

Mr. H. P. V. TOWNEND: Sir, I understand that the Hon'ble Member was under the impression that the general position leading up to the moving of this amendment was known to the House, from what had been said previously during the debate on the Bill; and this is why he did not explain it when he moved the amendment. Before touching on the Government amendment which, I presume, will be discussed at this stage, I should like to refer to the amendment moved by Mr. Narendra Kumar Basu. He has put forward what he says is practically a drafting amendment. As clause (*b*) is meaningless, he says in effect, let us draft the main clause in such a way that it conveys the meaning without the defective clause (*b*). He argues, that it is absurd to speak of the difference between the *salami* after the improvement and the *salami* before the improvement when no *salami* could possibly have been payable before the improvement—because the land was worthless. If I can show that there is any land of the classes mentioned in this clause, viz., unculturable waste, swamp or sand on which *salami* is now payable, his argument will be met. There is no reason whatsoever why any man who gets *salami* for land of this class now when there has been no improvement work should not be allowed the benefit of that *salami* when we impose the levy after an improvement. (MR. NARENDRA KUMAR BASU: Why this tender solicitude?) I have attempted to be fair to everyone when putting forward proposals for this Bill. There is no question of being particularly tender or of being generous to anybody or to any class. I have merely tried to put forward proposals on business principles: and I have not been influenced by sentiment, either for the landlord or for anybody else, because I know that if we give way to sentiment in detail we cannot succeed in doing any good on the whole.

I am told by various officers that there are places in Bengal where *salami* is paid on fisheries and that some of these fisheries are in areas which may be described as swamps. If a swamp is turned into culturable land there is no reason why the *salami* which was considered to be fair for the fisheries should not be taken into account.

Next, Sir, there is the question of sand. Sand is no good for purposes of cultivation, but it is very valuable for building purposes. Near to Calcutta the Magra sand fetches good prices and *salami* is paid for the right to work the sand. In the same way I am told that near Krishnagar there is a *char* called Kharia, the right to take sand from which is let out on annual lease. I also remember that, when I was Subdivisional Officer of Asansol in the coalfields, negotiations were going on for taking on lease parts of the beds of the Barakar and Damodar rivers in order to get sand for sand-stowing in the collieries. The negotiations to which I am referring broke down because the royalty claimed was rather too high for the sand to be worth taking.

As regards the third class, viz., unculturable land, I have been told by an ex-officer of the Settlement Department that he has known of *salami* being paid for such lands for the right to cut firewood. So, for all the three classes of land covered by the clause, *salami* is actually paid in certain cases and, if we exclude sub-clause (*b*), there may be injustice. I think that in view of what I have said, Mr. N. K. Basu will withdraw his amendment.

Sir, I now come on to the main amendment moved by the Hon'ble Member. It is one thing to improve large compact areas of unculturable land of the types mentioned in his amendment and then to assess the rates of *salami* for those large areas, and it is quite another to assess *salami* on small scattered plots of land which a landlord lets out after an improvement work has had effect. The *salami* to be paid would have to be calculated on that usual for the lands surrounding the lands which are settled—for lands "in the vicinity" and "of a similar description." The one inquiry would serve when it was a question of assessing the *salami* for a large area and we could send down an officer of some rank to deal with these things if they were on a large scale. But it is not possible to send an officer of some rank to deal with a couple of bighas of land here and a couple there which are let out by a landlord or sublet by a tenant. It would have to be done by a subordinate officer

Sir, reading through the papers regarding assessments in other provinces I found that the cases where there are complaints are with regard to assessments made by subordinate officers (interruptions). The important thing in dealing with these matters is for the superior officers as far as possible to make the assessments, but, if we do as Mr. Momin and Mr. Tamizuddin Khan wish us to do, we shall have to have sporadic inquiries made by subordinates and we shall find (interruptions)- we shall find that there are complaints and allegations of unfairness. Moreover it would be extremely difficult (interruptions) to discover when numerous isolated plots, scattered all over the district, are settled with tenants.

Khan Bahadur MUHAMMAD ABDUL MOMIN: What about large tracts?

Mr. H. P. V. TOWNEND: Sir, the difficulty in all such legislation is that dealing with exceptional cases costs more money than they are worth in the long run.

Sir, another point that has been brought up about this proposal that an improvement levy should be imposed on the *salami* whenever a plot of *khas* land is let out after an improvement work, is that it might prevent landlords from letting out their *khas* land at all. One of my officers has made some calculation which shows clearly that there

are cases in certain districts where it would not pay the landlord to let out his land (interruptions) when an improvement has been made, even if he does not have to pay improvement levy on the *salami*. He would make more money by working it himself (interruptions)—it is possible that by the use of modern methods on a wide scale a landlord could profitably cultivate his *khas* land: it is not essential for him to let it to tenants whatever my interrupters may think. I think it will be agreed by the House that it would not be for the benefit of the cultivators if the landlord refused to let out his land and if the cultivators had to work as hired labourers.

Now, there is another point (which one speaker has in fact mentioned casually)—the bearing of this clause on lands held *khas* by *raiyats*. I have been told by another officer that there is a good deal of this kind of land—I should say rather that there is a good deal of settlement with under-*raiyats*. I have been told by this officer that in at least one district, the name of which I have forgotten at the moment, it is customary for *raiyats* not to take *salami* from under-*raiyats*. (MR. NARENDRA KUMAR BASU: Then how can "the usual *salami*" be ascertained?) Because it is also customary for landlords in the same vicinity to take *salami* when they settle that class of land. Therefore there is a "usual *salami*" for land in the vicinity. It is usual for the landlord to take *salami* and when an under-*raiyat* takes the land the *salami* can be calculated on the usual *salami* paid to a landlord for that class of land. If the *raiyat* normally takes no *salami* as I was told by that officer of the Settlement Department (interruptions. MR. NARENDRA KUMAR BASU: You know that he was wrong.) Sir, I have been interrupted seven times in this one sentence: it is extremely difficult for me to argue in the face of this type of thing, and I think that I might be allowed to speak without interruptions.

Then remains the class of land to which Khan Bahadur Muhammad Abdul Momin referred, viz., large tracts of land which he describes as quasi-culturable, although they are not in fact cultivated. I do not know how many tracts of this type there are——(KHAN BAHADUR MUHAMMAD ABDUL MOMIN: Many, you can take it from me.) I do not know how much of this type of land there is (interruptions), whether land has been so classified anywhere except——(interruptions). I must apologise Sir: with this series of interruptions I have entirely lost the thread of my thoughts, and I cannot debate this point further. But I have dealt with every case put forward except these hypothetical lands in Jessore which are both culturable and never cultivated. It seems to me that a field, which cannot produce anything which is worth producing, is really on the verge of being unculturable and might well be described as such. We need not worry about land of this sort: for there is certainly no reason why we should expose all sorts of people all over the province to difficulties in connection with this clause because

of a certain amount of land in Jessore on which a landlord might escape without paying a levy. It seems to me that these cases can be left out of account.

I may refer to the remark of Mr. N. K. Basu that the words in clause (*a*) would mean "land similar to unculturable waste." I can only assure him that the Legislative Department officers are convinced otherwise, and we need not have any fear on that account. That is all I can say on the matter. I support the Hon'ble Member's amendment and oppose Mr. Basu's, unless he is willing to withdraw it.

Maulvi ABUL KASEM: My friend, Mr. Narendra Kumar Basu, in the course of his opposition to this amendment, said that the Hon'ble Member and the Government were influenced by backstairs. I do not agree with him. I know it for a fact that the Treasury Bench has always a soft corner for their favourite class, the landlords. That was their natural inclination. A good deal of sympathy is expressed on behalf of the landlords of Bengal. I would ask the landlords outside Burdwan Division to say what was their income at the time of the Permanent Settlement and what unearned increment they have got now? It is more than 20 times in many cases. Nobody ever touched them and to-day on account of the Permanent Settlement you cannot charge the landlords a pice. Now, Sir, I make no distinction between tenants, landlords, *raiyats* and under-*raiyats* and others. I know the man who cultivates the land. He is the producer of wealth and by whose labour even the Treasury Bench exists. They are hard pressed, they are badly fed and badly clothed and die of starvation. You may give the reason as cholera or dysentery. But it is starvation. Now, Sir, if the landlord gets a *salami* I see no reason why he should not, as Mr. Banerji has quoted, share it with the Government. I have only one explanation to make. It is not the generosity of the Government, but it is their partiality and the landlord cries if that *salami* is raised the capital expenditure and the interest thereon will be substantially reduced, and according to another amendment, our taxation will come last. Mr. Townend has spent his eloquence in support of the policy now adopted by Government. His argument and advocacy reminds me of an Englishman who was defended in a Bench by an eminent barrister and acquitted. He wanted to shake the lawyer's hands and said "Well, Sir, after all you have got me off." Counsel retorted "You have got the law, the other side have got justice." Mr. Townend will very well win this point in this House but it will not be justice. It will be only power exercised by the Treasury Bench, 44 votes at the command of landlords. But, Sir, I think the House and the Government ought to be custodian of the interest of the poor people as you profess to be. Sir, you ought to have a greater compassion for the actual cultivators who, as I have said, are the actual producers of the wealth. In every family in every society, in every place the earning

member of the family is the most cared-for member of the house. The cultivator is the earning member of the house but he is the most neglected and despised. On behalf of the general public and in the interest of this province I strongly oppose this amendment.

Mr. PRESIDENT: Before we proceed any further I should like to consult the House with regard to the procedure I should adopt regarding the amendments already before us. Two courses seem to be open. One is, that I can at this stage put the amendment of the Hon'ble Member in charge of the Bill, and the amendment of Mr. Narendra Kumar Basu, and if the amendment proposed by the Hon'ble Member is accepted, either as it is or modified, it may be allowed to replace the clause that is now in the Bill, and I may thereafter take up the various amendments on paper to the clause so replaced as amendments to the new clause. The other course is to deal with those amendments now. From the point of view of orderly debate, the former course appears to me to be more reasonable and practical.

The Hon'ble Khwaja Sir NAZIMUDDIN: I have no objection. Whatever is convenient to you.

Mr. NARENDRA KUMAR BASU: So far as my motion is concerned, I would ask for leave to withdraw it.

Mr. PRESIDENT: I find that the House would like me to adopt the procedure that I have recommended. I will, therefore, first put the Hon'ble Member's amendment. If it is carried that will replace the original clause as it now stands in the Bill and then I will take up the amendments on paper as amendments to the new clause as accepted by the House.

Mr. NARENDRA KUMAR BASU: May I enquire at this stage if leave has been given to withdraw my amendment?

The motion, by leave of the House, was withdrawn.

Mr. PRESIDENT: The question before the House is that the amendment moved by the Hon'ble Member in charge of the Bill be allowed to take the place of the clause now in the Bill, subject to amendments on paper which we shall proceed to discuss next.

The question being put a division was taken with the following results:—

AYES.

Ahsan, Nawabzada Khwaja Mohammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basu, Babu Jatindra Nath.
Basu, Mr. S. S.
Chanda, Mr. Apurva Kumar.
Chaudhuri, Khan Bahadur Maulvi Nafiur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Choudhury, Haji Badi Ahmed.

Sahay, Mr. D. J.
Sen, Babu Saroprasad.
Sen, Rai Bahadur Satyendra Kumar.
Faqequi, the Hon'ble Nawab K. G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. R.
Gladding, Mr. B.
Haider, Mr. S. K.
Hoque, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. S. S.
Hussain, Nawab Muchorrul, Khan Bahadur.
Hussain, Maulvi Latafat.
Khan, Maulvi Abi Abdulla.
Khan, Mr. Razafar Rahman.
Lockhart, Mr. A. R. E.
Maguire, Mr. L. T.
Mitter, Mr. S. C.
Mitter, the Hon'ble Sir Brojendra Lal.
Mitra, Babu Sarat Chandra.
Nag, Babu Sok Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Khwaja Sir.
Raheem, Mr. A.
Rai Mahasai, Manindra Deb.
Ray, Babu Khetter Mohan.
Reid, the Hon'ble Mr. R. N.
Rezbergh, Mr. T. J. Y.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy, Mr. Satkowar Singh.
Roy, Mr. Sarat Kumar.
Roy Choudhuri, Babu Hem Chandra.
Sachse, Mr. F. A.
Sahana, Rai Bahadur Satya Kinkar.
Sen, Rai Bahadur Akshoy Kumar.
Sen, Rai Bahadur Jogesh Chandra.
Singh, Srijut Taj Bahadur.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stevens, Mr. H. S. E.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Sir John.
Wordsworth, Mr. W. S.

NOES.

Ahmed, Khan Bahadur Maulvi Emaduddin.
Ali, Maulvi Hassan.
Ali, Maulvi, Syed Nausher.
Baksh, Maulvi Shaik Rahim.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Barma, Babu Promhari.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ahmezzaman.
Chaudhuri, Dr. Jogendra Chandra.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Khasi.
Chowdhury, Maulvi Nural Absar.
Ghosh, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Temizuddin.
Momin, Khan Bahadur Muhammad Abdul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Rout, Babu Nosoni.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.
Tarafder, Maulvi Rajib Uddin.

The Ayes being 54 and the Noes 29, the motion was carried.

Mr. PRESIDENT: I better again tell the House that by carrying this amendment this particular amendment of the Hon'ble Member in charge of the Bill becomes a clause of the Bill for the purposes of further discussion and the old clause ceases to exist. Now I shall take up the amendments which are relevant to the new clause as substituted.

(While the Hon'ble President was reading out the amendment some members were seen leaving their seats.)

Mr. PRESIDENT: I shall be very thankful if when I am on my legs, members do not leave their seats.

No further amendment having been moved, I now put the question that clause 8A stand part of the Bill.

The question was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that after clause 8A the following be inserted, namely:—

8B. When in respect of any improvement work—

(*a*) the capital cost of such work including the cost of any extensions, improvements or modifications of the work,

(*b*) the interest charges on such capital cost,

(*c*) any working loss in any year or years, and

(*d*) the interest on such loss,

as determined by the Local Government, have been recovered in full out of the proceeds of the improvement levy, by such annual allocations as may be prescribed, the amount of the improvement levy to be realised for each year in respect of such work shall thereafter be reduced to such a sum as the Bengal Legislative Council may, by a resolution, recommend:

Provided that in respect of the Damodar, Eden and Bakreswar Canals such sum shall not exceed the amount required to meet the annual cost, as determined by the Local Government, of maintenance and supervision of the improvement work and of collection of the improvement levy.

Explanation. The terms "working loss" means the sum by which the proceeds of the improvement levy in any year or years fall short of the amount necessary to meet—

(*i*) the annual allocations for such year or years in respect of the charges specified in clauses (*a*) and (*b*), and

(*ii*) the cost as determined by the Local Government, of maintenance and supervision of the improvement work, and of collection of the improvement levy, during such year or years.

This is one of the amendments which have been agreed to by the Government mainly to meet the wishes of the members of this House —that after the total cost of the scheme has been paid the rate of levy should be reduced. A difference has been made between the case of the Damodar, Eden and Bakreswar canals with all the other schemes. The difference lies in the fact that in the case of these three canals the rate will be reduced to the amount that will be required for the purpose of maintenance and supervision and the working cost. But in the other cases the amount to which the levy would be reduced will be decided after consulting the Legislative Council. The main reason for making a differentiation between the three canals and the new schemes is that the Eden, Damodar and Bakreswar canals were

constructed before this Act was enforced, and as such there appears to be a justification for a differential treatment. Government have made it quite clear, as I said before, that there must be a margin on all paying schemes so that they can meet the expenses as far as possible and take up the scheme on which the Government may lose. This amendment merely gives effect to that principle and makes it possible for the reduction of the rate of levy after the full cost has been paid. In the case of the new scheme the rate of levy that will be reduced will depend largely on the recommendation of the Legislative Council.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Not largely but entirely.

Mr. PRESIDENT: It is very much against my wish that the debate should degenerate into conversation. Please do not do this.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am sure this House can trust the Legislative Council to safeguard the interests of the masses. After all they are going to be completely representative and I hope by the time these schemes are fully paid off 30 or 40 years hence, there will be a complete adult franchise and full representation of the masses; so there can be no reason whatsoever to apprehend that the Council will not safeguard the interests of the masses. In view of the above I hope the Council will accept the amendment.

(The Council was adjourned at this stage for 15 minutes.)

(After adjournment.)

Short-notice amendment to new clause 8B.

Maulvi ABDUL HAKIM: Sir, I submitted a short-notice amendment to the new clause 8B. With your permission I should like to move it.

Mr. PRESIDENT: Yes, you have my permission.

Maulvi ABDUL HAKIM: Sir, I beg to move that in the new clause 8B (*d*), after the word "recommend" the words "but this sum shall not in any case exceed the amount to meet the cost of maintenance and supervision, if required, of the improvement work."

Sir, I do not wish to be long in my speech regarding this amendment because my amendment is very clear as it stands. I simply wish to make one or two remarks in this connection. First of all, I want that a hard-and-fast clause should be inserted, so that tenants may not be exploited by such officers of Government as are entrusted with

the task of preparing the necessary lists. If I tell the truth, I might say that there are many officers of Government who consider that they must be true to their salt which they enjoy from the Government without looking to the interests of the tenants. There are officers who vie with one another for the purpose of showing an increase of revenue by applying all possible means, wherever possible, without showing any mercy to the poor cultivators. For instance, I might cite a few instances relating to the raising of subscriptions of the Silver Jubilee Fund. On the advice of many Subdivisional Officers—

Mr. PRESIDENT: You must not refer to that.

Maulvi ABDUL HAKIM: Sir, may I not say anything regarding the Jubilee Fund realisation to illustrate my points?

Mr. PRESIDENT: No, we have nothing to do with that.

Maulvi ABDUL HAKIM: Very well, Sir, I leave this point. It is provided in this new clause that after the capital cost has been realised a reduced improvement levy will be imposed by the Legislative Council itself. But I submit, Sir, that the Council is not always representative of the poor tenants, just as the present Council does not properly represent the interests of the poor masses. Moreover, it may so happen that in future Councils, there may be parties who may be more keen on keeping up the interests of the Government than to look after the interests of the tenants. After all, I have not very much confidence about the attitude and actions of the Council. I, therefore, think that a hard-and-fast sub-clause be inserted in this new clause 8B so that the hands of the officers of Government may be tied and they may not be able to realise any levy in an improper manner. This is a point which is of vital interest to the general public especially the poor masses.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. H. P. V. TOWNEND: Sir, this amendment is, in effect, a recommendation that the House should go back, in regard to events of 60 years hence, to a principle which has not been accepted by this House in regard to a levy in the immediate future. It has been explained by the Hon'ble Member that it was not always possible for every work to pay for itself and that it was necessary to arrange that the loss on one scheme should be made up from profits on other schemes. This amendment would imply that when we have a work which is paying for itself and is making a profit, and when that profit is being used to finance some other work, the margin used for

financing that other work should be cut off as soon as the cost of the first work has been paid. It would be impossible on these lines to carry on. But there is no sense in the amendment. It seeks to tie the hands of the Legislative Council at a future date, but I really do not see why there should be such a distrust of the wisdom of the Legislative Council of the future. The idea was that progress was to be made in Bengal and education was to spread, but the mover is arguing that we may expect a progressive decline and that the wisdom of the House forty or sixty years later will be far less than it is now. There is no justification for this argument at all.

Sir, I would oppose the amendment.

The motion being put, Maulvi Abdul Hakim claimed a division.

The Hon'ble the President directed that the division be taken by a show of hands.

There being only four in favour of the motion, the amendment was lost.

The following amendment was then put and agreed to.

That after clause 8A the following be inserted, namely:—

8B. When in respect of any improvement work—

(*a*) the capital cost of such work including the cost of any extensions, improvements or modifications of the work,

(*b*) the interest charges on such capital cost,

(*c*) any working loss in any year or years,

(*d*) the interest on such loss,

as determined by the Local Government, have been recovered in full out of the proceeds of the improvement levy, by such annual allocations as may be prescribed, the amount of the improvement levy to be realised for each year in respect of such work shall thereafter be reduced to such a sum as the Bengal Legislative Council may, by a resolution, recommend:

Provided that in respect of the Damodar, Eden and Bakreswar Canals such sum shall not exceed the amount required to meet the cost, as determined by the Local Government, of maintenance and supervision of the improvement work and of collection of the improvement levy.

Explanation.- The term "working loss" means the sum by which the proceeds of the improvement levy in any year or years fall short of the amount necessary to meet—

(*i*) the annual allocations for such year or years in respect of the charges specified in clauses (*a*) and (*b*), and

(*ii*) the cost, as determined by the Local Government, of maintenance and supervision of the improvement work and of collection of the improvement levy during such year or years.

Mr. H. P. V. TOWNEND: Sir, I beg to move that clauses 9, 9A, 9AA, 9B, 9C and 9D be omitted.

The omission of these clauses has already been decided on in connection with the debate on clause 3. It is not therefore necessary for me to add anything now: the principle has already been accepted by the House.

The amendment was put and agreed to.

Clause 10.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that for clause 10 the following be substituted, namely:—

"10. The Collector shall, from time to time, prepare and publish in the prescribed form and manner for a notified area or any part thereof a statement showing—

(*i*) the name of every person who is liable to pay the improvement levy in respect of any land in such area or part, and

(*ii*) the amount of improvement levy to be paid by each such person, annually or otherwise, in respect of such land."

Sir, there is very little for me to add. These amendments are more or less consequential on account of the amendments which have already been accepted by the House.

Mr. PRESIDENT: Will you please tell the House what changes you have made in the amendments with my permission?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir, the omission has been in respect of non-agricultural lands. These amendments and the changes made in them are due to the fact that the House had already decided to omit non-agricultural lands from the imposition of the levy. I may also add that the amendment differs from the clause in the Bill by the inclusion of the words "or part." This will enable statements to be issued in respect of different parts of the notified area, viz., for individual thanas or even individual villages; and this will simplify the work of publication and revision of statements. When any alteration becomes necessary in a statement, it will not be necessary to republish all entries referring to the whole notified area. The provision for revision of statements in the prescribed manner has been transferred to clauses 10B and 10C.

The amendment was then put and agreed to.

The question that clause 10 and clause 10A stand part of the Bill was put and agreed to.

Clause 10B.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that clause 10B be renumbered as sub-clause (*1*) of clause 10B and after that clause as so renumbered the following be added, namely:—

"(*2*) If the Collector makes any modification referred to in sub-section (*1*) in the statement he shall serve on the person concerned a revised notice of demand in the prescribed form and manner and containing the prescribed particulars."

Sir, this amendment is largely due to the fact that we have agreed to omit non-agricultural lands from the imposition of the levy.

The amendment was put and agreed to.

The question that clause 10B as amended stand part of the Bill was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that after clause 10B the following be inserted, namely:—

"10C. (*1*) The Collector may from time to time add to or alter in the prescribed manner any statement republished under sub-section (*1*) of section 10B. In such case, the Collector shall publish in the prescribed form and manner a supplementary statement showing any addition or alteration so made, and the provisions of this Act shall apply to such supplementary statement as if it were a statement published under section 10.

(*2*) Where any addition to or alteration in a statement is required as a result of a decision of an appellate or revisional authority, the Collector shall add to or alter the statement accordingly, and it shall not be necessary to publish any supplementary statement in respect thereof under sub-section (*1*)."

Sir, it is a purely consequential amendment.

The amendment was put and agreed to.

Clause 11.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 11 (*1*), in lines 1 and 2, the words "In the case of agricultural lands within a notified area" be omitted.

Sir, this is consequential.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 11 (*1*), in line 3, after the words, figures and letter "under section 10A," the words, brackets, figures and letter "or of a revised notice, if any, under sub-section (*2*) of section 10B" be inserted.

The amendment was put and agreed to.

Rai Bahadur AKSHOY KUMAR SEN: Sir, I beg to move that in clause 11 (*1*), in lines 5 and 9, for the words "the Commissioner of Division," the words "the District Judge having territorial jurisdiction" be substituted.

I move this on the ground that the power of appeal of this clause has been conferred upon the Divisional Commissioner and my submission is that it would be difficult for a person aggrieved to go to the headquarters stations and go from one district to the other where the seat of the Commissioner is situated. It is highly expensive to the tenant. So my submission is that the appeal should lie with the District Judges who have territorial jurisdiction. I hope the Hon'ble Member will accept my amendment.

Mr. H. P. V. TOWNEND: The House will remember that a similar proposal was discussed at great length the other afternoon in connection with the main question whether revenue matters should be referred to the civil courts. I explained, with illustrations from all parts of India, that everywhere revenue matters are dealt with by revenue courts and that it was impossible to expect a correct decision regarding such matters from a civil court, which would have to decide on formal evidence. I do not think it is necessary to go into the details of all that again. The House has already had sufficient facts and figures on this subject.

As regards the expense of travelling to the Commissioner's headquarters as compared with that of going before a Judge, I think if there is any extra cost it would not be grudged by the *raiyat*, who will escape being involved in civil court proceedings and who might expect to get much quicker justice from a revenue officer in a matter of this kind, for reasons which I have explained.

I oppose the motion.

The amendment was put and lost.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move that in clause 11, in lines 8 and 9, after the word "incorrect," the words "or excessive" be inserted.

This clause 11 deals with appeals with regard to improvement levy. The grounds on which such appeal can be made have also been given in this clause. The grounds are these: that a certain person has been wrongly shown in the statement as liable to pay the improvement levy or that the amount shown in such statement as payable by him is incorrect. The word "incorrect" does not appear to be a happy one. It generally conveys some clerical mistake. Supposing a man is assessed at Rs. 10, should he be allowed to appeal only on the ground that the amount is incorrectly shown or should he be able to appeal

on the ground that the assessment is excessive? That is the question at issue. My proposal is that he should be entitled to appeal on the ground that the assessment is excessive. I think there can be no fear or apprehension, if an appeal is permitted on that ground. I think that in fairness an appeal should lie on the ground that the assessment is excessive, otherwise the so-called right of appeal becomes illusory. There should be no difficulty on the part of Government in accepting the simple amendment.

Mr. H. P. V. TOWNEND: The amendment is moved under a misapprehension. I think the word "incorrect" does not merely refer to a clerical mistake. The Bill has laid down a certain procedure by which the improvement levy is to be assessed on any particular land or on any particular person It is to be calculated on a certain estimated increase and on a definite fixed price. When that procedure has been followed and a figure is reached which is not justified by the various facts of the case, the figure thus reached is "incorrect" and an appeal will lie Now if we put in the word "excessive," the man would come up and say "I am poor, I have got 10 children and a number of relations to maintain; I find it very difficult to get money; I am in debt; so far as I am concerned the assessment is 'excessive'; and I would like to be let off" If the words suggested in the amendment are added, an appellant would be justified in arguing like this: it would be equivalent to insolvency proceedings. If a man cannot pay, there is always the possibility of a remission being allowed. But when it is suggested that poverty should be a sufficient legal ground for reducing an assessment I really do not know how it would work. It would be altogether wrong to allow a man to go and appeal to an officer and say "as I am very poor please cut down my assessment." There would be no limit to the misunderstandings and allegations of corruption that would arise. It will not be worth while running the risk. I hope the mover of this amendment will withdraw it.

The amendment was put and lost.

The question that clause 11, as amended, stand part of the Bill, was put and agreed to.

Clause 11A.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that clause 11A be omitted.

This is purely consequential.

The amendment was put and agreed to.

Mr. PRESIDENT: The amendments Nos. 541 to 552 do not arise. I skip these over and take up clause 12.

Clause 12.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that clause 12 be omitted.

Sir, clause 12 runs thus:

"No objection shall be taken to the imposition of the improvement levy, [*under this Act*] nor shall the liability of any person to pay the same be questioned, in any other manner than that provided in this Act."

Sir, I may point out that two considerations are involved in this connection. One is the sweeping way in which it is sought to oust the jurisdiction of civil courts from taking up any matter in this connection. Sir, I do not see any necessity after the provisions that we have incorporated in the Bill for another additional clause of this nature to strengthen the position of Government. It seems that the Government of Bengal do not want to take any risks. Their attitude is that they are going to leave no loophole in the matter and perhaps that is the reason why this sweeping provision is made in this clause. I do not know how far it is within the power of the Legislative Council to incorporate in a Bill a provision of such a sweeping nature. If we do that I do not know what will be the legal value of such a clause. Any way, we cannot confer on the Government any power to oust a properly constituted civil court of its jurisdiction which we are not entitled to do. There may be the jurisdiction of the High Court and I think it is not within the purview of this legislature to interfere with the powers of a High Court. In that case perhaps the Government of Bengal will have to move the Government of India to get a separate measure passed in the Legislative Assembly. The question of propriety of ousting the jurisdiction of the civil court and of encroaching on the rights of the people was discussed the other day and I do not want to reopen the discussion now. For good or bad the Legislative Council has conferred certain powers on the Government of Bengal which are against the traditions of the system of administration that has been going on in this country for the last 150 years or so. Sir, much can be said on this point but I refrain from doing that in order not to waste the time of the House. One point I would like to emphasise and also to bring to the notice of Government is this: I do not see any reason why the Government of Bengal seek to create a new departure in this connection. Do they think that they are wiser than their predecessors? This ousting of the jurisdiction of the civil court in such matters was never done before. It may be convenient but there are many things

that are convenient but are not done, are not tolerated. If that is the present attitude of the Government of Bengal that to avoid inconvenience and to expedite the despatch of work this ousting of the jurisdiction of the civil court is necessary, it is for them to bring in a comprehensive measure and extend this principle to all the departments of life. In that case we would all share in the benefit. If there is a dispute between a person and another he goes to a civil court, but why should the Government of Bengal ask for these special privileges. If the Government of Bengal and if the Government of India, and for the matter of that, if the Government established in this country have to submit themselves to the jurisdiction of the civil court in all other matters, then why should it be necessary to oust that jurisdiction in this case. In the matter of land acquisition, in the matter of the administration of the Railways' Act and such other things, things are going on quite satisfactorily under the existing system of administration. By introducing this Act you are setting up a very bad example. You are removing from the minds of the people the great respect that they have got for the decisions of a civil court. In one way this attempt on the part of the Government of Bengal to oust the jurisdiction of the civil court is a sort of censure on the civil court administration of this country. I shall leave this point there. There is another aspect of the question and it is this: You are going to suggest that no objection shall be taken to the imposition of levy in any other manner than that provided in the Act. You have provided that the imposition of the levy is only permissible when it is sanctioned by the Legislative Council, on a resolution passed by the Council to that effect. Are you going to deprive the Legislative Council of the power to reconsider such a decision? Will it be possible or will it not be possible for a member to bring before this Legislative Council a new resolution according to the rules framed under the Legislative Council Rules asking for the abolition of this improvement levy in any particular area? What are you going to do about that? It is a valued privilege. Are you going to deprive the Legislative Council of this valued privilege by inserting this vague clause in this Bill? Sir, a situation may easily arise like that. The Bengal Legislative Council may once give its sanction to the imposition of a levy, but a new situation may arise when it may change its mind. In view of this difficulty I would suggest the Government to withdraw this clause from the Bill and to be content with the special powers they have obtained in the other provisions of the Bill which we have already accepted.

Maulvi TAMIZUDDIN KHAN: I am sorry I cannot see eye to eye with the mover of this amendment. I shall deal with his last point first. He said that this clause will also oust the jurisdiction of this Council to deal with this matter by way of a resolution. I submit, Sir, that he is entirely wrong when he says so. The clause provides

that no objection shall be taken in any other manner except as provided in this Act. The Bill itself provides that the levy shall be imposed in accordance with a resolution passed in this Council. Therefore, there is no reason for the apprehension entertained by my friend. Again nothing can oust the jurisdiction of this Council, and this Council will be at perfect liberty to amend this clause or to do away with it in any way it likes. Therefore nothing passed at one session of the Council can oust the jurisdiction of the Council in that respect for all time to come.

Secondly, as regards the substance of this amendment, I submit that the jurisdiction of the civil court has been very rightly ousted in a matter like this. If these questions are allowed to be taken to the civil court they will drag on for a considerable length of time, and that will simply hamper the operation of a measure like this: for the sake of the smooth working of the measure, it is very essential that questions like these should never be allowed to be taken to the civil court. The right of appeal that has been provided in the Bill should be quite sufficient. I would submit that although the right of a citizen to have his grievances redressed by resort to a civil court is a valuable right, I think there is no gainsaying the fact that many of the ills and sufferings of the poor tenants in whose interests the measure is sought to be passed are due to the action of these civil courts. I submit, Sir, that this amendment cannot be accepted.

Rai Bahadur AKSHOY KUMAR SEN: I beg to support the amendment moved by my friend Mr. Shanti Shekhareswar Ray. It is to be found in clause 12 that "No objection shall be taken to the imposition of the improvement levy (under this Act) nor shall the liability of any person to pay the same be questioned, in any other manner than that provided in this Act." There is no liability of a person on whom the improvement levy has been assessed wrongly because he is not the occupier or owner of that land although the *parcha* or the record-of-rights erroneously describes him as the owner of that land and the revenue officer summarily makes him liable for the payment of that levy. In the same summary way his case will not be considered by any superior authority. Of course there is a provision for revision by the Board of Revenue, but a person who has not got money enough to go over to Calcutta and engage a Counsel or Pleader and have the decision of the Commissioner revised will have no redress whatever. There will be the liability to pay under this Act. The power of Government to assess any levy is not questioned but his only grievance is that he is not the real owner of the land; he has been assessed wrongly. In that case why should he not be allowed to go to the civil court to have a declaration that he is not the man to be assessed

with the improvement levy? It is not his intention to delay the operation of this Act in any way. Sir, section 9 of the Code of Civil Procedure indicates that the court shall have jurisdiction over all cases and suits of a civil nature. And this liability of any person to pay the levy is made practically unquestionable by this clause. But since he has the right to approach a civil court, where he is—and can be made—liable, I do not see any reason why he should be deprived of this right. There is no question of hampering the law and no question of delay. The machinery will work on its own account. Under the operation of this clause if a man fails to pay the levy, a distress warrant will probably be issued under the provisions of the Public Demands Recovery Act. In the meantime he goes to the civil court for a declaration that he is not liable and unless and until the imposition of the levy is set aside by the civil court the operation of the provisions of this Act will go on of itself. There is no legal bar to such a course; there is no reason to believe that there will be delay; then why this apprehension? The reason is obvious. I myself have some experience of the decisions of revenue courts and revenue officers: they generally dispose of the cases filed before them in a very summary fashion. I might, perhaps, relate one particular instance. In that case I was engaged by a client of mine to appear before a revenue officer. He purchased Rs. 700 worth of settlement records-of-rights (bound books), etc., from the Faridpore Settlement Office and he was granted a receipt by the clerk in charge of the sale of these books. A few months later the clerk was dismissed by Government, I understand, on charges of defalcation of Government money. One or two years after this event a certificate was issued against my client for the realization of this sum of Rs. 700. An objection was filed before the Certificate Officer through me who acted as his Pleader, together with the regular receipt, and the objection was put forward that the sum could not be paid twice by my client but the Certificate Officer overruled it. He said that Government, as the creditor, must have the money. Though the money was actually paid by my client—in fact, he held a receipt for it—yet the contention of the Certificate Officer was that since the money was missing, my client would have to pay once more! No one looks deep into such matters; every one deals with such cases in a very summary fashion. Who cares to listen to the genuine grievances of the public? I appealed against this decision before the Collector with the same result as before: from the Collector I went up to the Commissioner, but also without any avail: from the Commissioner I went right up to the Board of Revenue on revision where also my petition was rejected. Then a suit was filed by me in a civil court—in the court of a Sadar Munsiff—making the Secretary of State for India in Council the defendant. It was contested then but decreed in my client's favour with costs. There was absolutely no ground for dismissal of the case by any of the revenue authorities who adjudicated on this case. Such experience

is of daily occurrence. We do not say that we have no faith or confidence in the revenue officers. The point is that they have no training in civil law: they have got neither the brains nor the time to go through complicated civil matters, not having the civil legal training. Government have established civil courts for the purpose of vindicating the civil rights of the people. After all, any wrong done to the people of this country by the executive, who generally deal with matters in a summary manner, can only be set right in a civil court, which is the bulwark of the people's liberties—so to speak. So, Sir, I submit that the civil court must remain supreme.

Sir, in our younger days when we read the history of Rome we found the same conflict between the Executive—by which I mean the military authorities—and the Judiciary. The military authorities always tried to go over the head of the civil authorities, with the result that there was chaos in the administration. The civil authorities are there to put a check upon the vagaries of the executive authorities. I must earnestly plead that this check, this control, which has been allowed by Government, this control over the executive, this valuable right, should not be taken away in such a light-hearted manner.

My hon'ble friend, Maulvi Tamizuddin Khan, perhaps, has not had my experience which I have related.

My humble submission to this House is that the question of the liability of any person who is assessed wrongly, should be adjudicated upon by a civil court and the bogey of delay should not be allowed to rear its head so far as the operation of this Act is concerned. I do not want to be obtrusive: I simply want to safeguard the poor tenants, especially in a case where Government is in the position of a creditor.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, Mr. Shanti Shekhareswar Ray and Rai Bahadur Akshoy Kumar Sen have both said that this is a new innovation which Government are introducing. Sir, may I remind both of them that this is the practice that is followed in all cases of assessment—municipal rates, union board rates, etc.,—and they are never questioned in regard to the amount of the levy or the assessment in any court of law? Similarly, we have only followed what has been the accepted practice in this matter. What Maulvi Tamizuddin Khan has said I agree with, viz., that, as far as this Council is concerned, its jurisdiction can never be restricted; also that if you want this Act to be enforced and worked properly it is necessary that we should not be hampered by delay in decisions on the part of the civil court. There is no question that justice will not be done by a special court; but we fear that the decisions of the civil court may considerably delay the process and the operations of this Act. Thus, the taking up of a work and giving effect to it may be considerably

delayed if the jurisdiction of the civil court be retained and people are allowed to go to the civil court on questions of what the improvement levy should be and whether the amount imposed is correctly done or not. Therefore, Sir, in view of past practice on all these questions, I hope the mover will kindly withdraw his motion.

Mr. SHANTI SHEKHARESWAR RAY: May I put a question to the Hon'ble Member? Will it be permissible to the Bengal Legislative Council to re-open the question of the imposition of the levy once they have given their consent?

The Hon'ble Khwaja Sir NAZIMUDDIN: No, certainly not. If in respect of a particular scheme the levy has been sanctioned and imposed, until the Act is amended I do not see how the levy can be changed. The Act has got to be amended if you want to do this, but the Minister is there and being a responsible Minister, responsible to the legislature, he will no doubt fall in with the wishes of the legislature if they want that to be done.

Mr. PRESIDENT: Mr. Ray's point is a constitutional one. Let me try and clear up the rather novel position which it has created. First of all, a resolution cannot, under our rules, be revised in the same session. Secondly, the character of the resolution in this particular case, perhaps, means a little more than the ordinary "resolution on a matter of general public interest." At the same time, although it has got to be admitted that the words employed in the Bill do not make it exactly mandatory, or obliterate the line of demarcation that is between a "special motion" and a "resolution," a resolution, as contemplated in the Bill, restricts the object or objects of an improvement scheme and its principles if not its details. It also restricts the action of Government in imposing levy. Any way a special character has been given to a resolution of this type, if moved, with reference to the context of the Bill when it becomes an Act. Any way, the powers that may be given by it cannot in my opinion be withdrawn by the Council unless Government agrees to accept any new recommendation to that effect which the Council may make thereafter by a fresh resolution in a fresh session. I think that clears up the point.

Mr. SHANTI SHEKHARESWAR RAY: Of course, if that is your ruling, it is a different matter.

Mr. PRESIDENT: I am not giving a ruling but I am only trying to explain away your difficulty.

Mr. SHANTI SHEKHARESWAR RAY: My position is that nothing we do here can infringe upon the rights of the Bengal Legislative Council, because if that Council has a right to recommend by resolution the imposition of a levy, they have also an inherent right to rescind that resolution. For instance, a particular Minister may get a Council's vote in support of a particular scheme but a new situation may arise thereafter and the Ministry may fall and the new Minister may have different ideas on the subject.

Mr. PRESIDENT: What I have already said covers that point.

Mr. SHANTI SHEKHARESWAR RAY: I have great doubts about the power of the present Bengal Legislative Council by this section to deprive a future Bengal Legislative Council of the power to exercise their right.

Mr. PRESIDENT: I did not say that nor does the clause say so. The powers of the Council vested in them by the Government of India Act cannot, of course, be taken away by any Act of the local Legislature. Let me try to explain the matter more fully. So far as I can visualize the working of the new Act, it will be on the initiative of Government that the Council will be called upon to put their seal of approval on a particular scheme. I doubt whether it is the intention that the Council after according their approval could revise that decision by means of a resolution brought forward by an individual member. If that were not so, there would be no end to it; but, if such a recommendation is made by the Council the Government may or may not accept it. The powers already given by the legislature in the manner prescribed by the Act may be kept alive by the Government on the strength of the relevant provision in the Act itself, in spite of anything else, unless the demand for a grant to cover the expenditure on the improvement scheme is refused by the Council.

The Hon'ble Khwaja Sir NAZIMUDDIN: I think, Sir, if there is any difficulty when Government want to modify or reduce a rate it will be necessary for them to come to the Council for approval, because the question of finance will come in. Any modification of the rates will require the sanction of the Council.

Mr. PRESIDENT: That is a different matter.

Mr. SHANTI SHEKHARESWAR RAY: Sir, my whole point is this: while there is a mention of the sanction of the Council there is nothing suggesting finality. The point I was referring to was that by

virtue of this clause perhaps an air of finality is given. If that is not so, I have no grievance. Anyhow I have no grievance against your ruling, Sir.

Mr. PRESIDENT: The question of finality does not arise, as that is dependant on many things else. Does Secretary, Legislative Department, agree, with all what I have already said in disposing of Mr. Ray's real point?

Mr. G. C. HOOPER: Yes, Sir, I agree with what you have said.

The question that clause 12 be omitted was then put and lost.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I beg to move that in clause 12, line 1, for the word "the" after the words "imposition of" the word "an" be substituted.

Sir, the substitution of "an" is practically consequential to the amendment already accepted by the House regarding clause 6, that there should be different rates of improvement levy for different classes of land.

The motion was put and agreed to.

The question that clause 12, as amended, stand part of the Bill, was put and agreed to.

Clause 14.

Maulvi ABDUL HAKIM: Sir, I beg to move that in clause 14, lines 3 and 4, for the words "in the prescribed manner on payment of the prescribed fees" the words "free of costs" be substituted.

Sir, the statements may be lengthy ones and if a person wants copies thereof the charge may be too heavy for an agriculturist to pay. I therefore submit that in this matter Government ought to be a bit sympathetic towards the agriculturists who are very hard hit at the present moment and allow them to have these copies free of charge so that they may get their grievances redressed by the appellate courts, just as a convicted person in a warrant case is supplied with a copy of the judgment free of charge. With these few words I commend my motion to the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the difficulty in accepting an amendment like this is that the cost may become tremendous, because there is no limit as to the number of copies which a man may ask for. Similarly, in a big scheme we may have a large number of persons concerned. If no limit is placed—and especially as regards the entries to be made there is no limit on that and there is

no prescribed form or manner in which the notice is to be given—the cost will be tremendous. Therefore, I think the acceptance of this amendment will absolutely make the provision unworkable. The notice of demand will be there and it will contain all the particulars.

The amendment was then put and lost.

The question that clause 14 stand part of the Bill was put and agreed to.

Clause 15.

The question that clause 15 stand part of the Bill was put and agreed to.

Clause 16.

Maulvi ABDUL HAKIM: Sir, I beg to move that in clause 16 (*2*), in line 3, for the words "six and quarter", the words "three and a half" be substituted.

Sir, I do not wish to speak much on this amendment. The House knows well there is a great economic crisis going on in the country and the interest on Government loan even has decreased from 6 per cent. to 3 per cent. or so. In these circumstances it is only fair that the rate of interest should be reduced as far as possible. With these few words I commend my motion.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, it is true that at the present time the rate of interest is very low, but no one would expect the rate to remain at this figure for long. The usual rate of interest is 6½ per cent.; and in view of the fact that we are legislating for the future and not for a special period or a particular period of time, I think 6½ per cent cannot be considered as an exorbitant rate of interest. In view of what I have said, I hope that the mover will withdraw his amendment.

The amendment was put and lost.

Kazi EMDADUL HOQUE: I beg to move that in clause 16 (*2*), in line 3, the words "and a quarter" be omitted.

Sir, I have put the figure much lower than that in the previous amendment. I suppose the Hon'ble Member in charge will not find any difficulty in granting the small concession asked for in my amendment. In this matter he is not being called upon to make a great sacrifice, but a very small sacrifice. If he has a soft corner in his heart, as he professes to have, for the poor cultivators, then I think he will not have the least hesitation in accepting my amendment. I want this concession in favour of the defaulters—the person who cannot

manage to pay the levy imposed upon them. But it may sound monsterous that I am asking the concession for a man who has defaulted. But the thing is that whenever any man will not pay any levy on a particular date fixed it is not to be presumed that that man has neglected in making the payment but it should be supposed that the man could not pay the levy because he knows full well he cannot avoid payment, he will have to pay the amount any day. So if he does not make any payment on a due date he must be supposed and presumed that that man has not the means to pay on a due date and not for his negligence. It is a patent fact that every year we expect next year will be better, but our experience is rather the reverse. So we do not expect that good time will come soon and this state of things will continue how many years we do not know. So I think this is the least that we can ask from Government and this will also give a very good standard for calculation, annas eight per month or Rs. 6 per year. For this reason I only want that "and a quarter" be omitted. This is the least I can expect from the hands of the Hon'ble Member.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, 6¼ has been fixed purely for convenience of calculation; it comes to one anna in the rupee and the amount is maximum. There is provision that the rates may vary from time to time. So there is no real advantage whatsoever in reducing it by a quarter. It is purely sentimental. There is no reason at present to think that the quarter will not be given up by Government. So I hope the hon'ble member will withdraw his motion.

The amendment was put and lost.

The question that clause 16 stand part of the Bill was put and agreed to.

Clause 16A.

Mr. H. P. V. TOWNEND: I beg to move that clause 16A be omitted.

The reason for this motion is that we have been advised that the clause as it stands is defective. The lawyers who have examined it say that the whole thing is far too hazy. The position of the man with whom the Collector enters into an agreement is not at all clear: he might perhaps be, in law, an agent but he might equally well be a farmer, the very thing which the Select Committee desired to avoid. They advised that we can obtain the object we seek (appointing a landlord as an agent to collect the levy) without any provision for this in the Bill. If Government wish to employ an agent, there will be no difficulty, even if there is no specific power to do so included in the Bill.

The amendment was put and agreed to.

Clause 16B.

Kazi EMDADUL HOQUE: I beg to move that in clause 16B, in lines 4 and 5, for the words "in the prescribed manner," the words "by postal money order" be substituted.

Sir, it deals with the question of refund of the improvement levy to a person who has made this payment. If it is found that the man is not liable to make the payment then the levy would have to be paid back to him. Now it is said that this should be in a manner prescribed but I do not like to leave it so vague. We know that the practice for a refund of the money is to make an application for payment; it is attended with a great deal of difficulty on the part of the people asking for refund especially for the poor cultivators. Cultivators themselves cannot make petition; they will have to approach other persons to act on their behalf and they charge something. After the submission of the application it will go round from one person to another person and thus the man will have to go from one to another making payments in each case. So in some cases it becomes a great trouble and at the same time a great hardship on the part of persons to get back the money. Sometimes he gets nothing. Everything is paid to different persons who act on his behalf. So I advise Government that the refund should be made by postal money order. In that case the money will reach his hand and Government will lose nothing because the money order fee will be paid out of the money he will get. As it will not touch the pocket of the Government I hope Government will have no objection to accept this amendment.

The Hon'ble Khwaja Sir NAZIMUDDIN: This proposal appears to be very reasonable but it is not actually as reasonable as the hon'ble member tries to make out. Supposing the cultivator wants the refund to be set off against any other payment, if then this money has got to be sent back to him by money orders, then it cannot be set off against his payment for the current year, whereas if it is set off against a payment it saves Government trouble and saves him the trouble. The money can be sent by postal order but, if we accept the amendment our hands are tied and we cannot make a set off. Refund will have to be sent by means of postal order. I think the hon'ble member will withdraw his amendment because it is not in the interest of the tenant.

The amendment was, by leave of the Council, withdrawn.

The question that clause 16B and clause 17 stand part of the Bill was put and agreed to.

Clause 18.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 18 (*1*), in line 3, the word "agricultural" before the word "produce" be omitted, and that the word "agricultural" be inserted before the word "land."

This is in view of previous motion accepted. It is consequential.

The amendment was put and agreed to.

Mr. H. P. V. TOWNEND: I beg to move that in clause 18 (*1*), in lines 3 and 4, the words "or the profits from any land not used for agricultural purposes" be omitted.

This is consequential.

The amendment was put and agreed to.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move that in clause 18 (*3*), in line 5, after the word "removal," the words "or may return the crops at the demand of the owner" be inserted.

The Hon'ble Member's amendment is first to pay compensation for any damage caused in cutting and removing, and the next is to pay for the value of the crop cut and removed. I think that there would be no objection on the part of Government to accept this because the crop is cut for a set purpose and when that purpose is achieved the owner may want a return. I do not think there should be any objection. I hope the Hon'ble Member will see his way to accept this as this would be hardship to the people.

Mr. H. P. V. TOWNEND: I think the Rai Bahadur has misunderstood the position. The idea is that when crop cutting experiments are made for the purpose of ascertaining the actual produce the crop should be moved several miles away. As Mr. Thompson pointed out when the Bill was first introduced crop cutting experiments always tend in the direction of underestimating the actual produce. When crops are left where they are cut, it is very easy for the *raiyat* to take away a small proportion of the produce: we cannot keep a guard on it night and day. And the result when the figures per acre are calculated from an experiment over a few square yards is a tremendous difference. When under this Bill we cut a crop for experimental purposes, we should carry it away to a very considerable distance. Last year, when the crop cutting experiments were made, the paddy was taken as far as

ten miles away. If the owner wanted to take the crop he would have to carry it back 10 miles and he would not want to meet the cost. There is no reason why Government should pay the cost of carriage for that. The position last year was that we paid a very handsome price for the paddy we took away; as a matter of fact in excess of the market rate. The *raiyats* made no complaints. In fact they were very satisfied with the prices. I would leave it as it is.

The amendment was, by leave of the Council, withdrawn.

The question that clause 18, as amended, stand part of the Bill was put and agreed to.

Clause 19.

Babu JATINDRA NATH BASU: Sir, I beg to move that in clause 19(*1*), in line 4, after the word "documents," the words "in his possession or control" be inserted.

The amendment is intended with the view that the ordinary legal phraseology in such cases should be used. It has no other object.

The Hon'ble Khwaja Sir NAZIMUDDIN: We accept the amendment.

The amendment was put and agreed to.

The question that clause 19, as amended, and clause 19A stand part of the Bill was put and agreed to.

Mr. H. P. V. TOWNEND: I beg to move that for sub-clause (*1*) of clause 19B, the following be substituted, namely:—

"(*1*) Notwithstanding anything contained in any other Act, no person who has been declared liable to pay an improvement levy in respect of any land benefited by an improvement work shall be liable to pay any rates, dues or charges to the Government under any of the Acts mentioned in the schedule in return for any benefits derived by such land from the improvement work."

This brings into one amendment, the three amendments of which notice has been given in the printed list, and adds a further amendment by inserting the words "in return for any benefit derived *by such land* from the improvement work" instead of "in return for any benefit derived by *him*." This last is in a manner consequential on the omission from the definition of agricultural land of various classes of lands which might actually benefit from an improvement work. Without

the amendment there would be a possibility that a person whose land has not been actually assessed to pay improvement levy although it benefited from an improvement work might under this section escape payment of sums due under another Act. There may be cases where for any piece of land improvement levy is payable by a man whose other land, benefited by the improvement work, is not assessed to improvement levy and liable to pay charges under another Act.

There is another point. As the clause stands in the Bill a person by whom an improvement levy is payable might escape under both sub-clauses. If he had not been actually assessed to improvement levy he would escape payment under the Irrigation Act. But he ought to pay either the one or the other. That has made it necessary for me to move this amendment. I hope the House will accept it.

The amendment was put and agreed to.

The question that clause 19B as amended, stand part of the Bill was put and agreed to.

Clause 20.

The question that clause 20 stand part of the Bill was put and agreed to.

Clause 21.

The question that clause 21 stand part of the Bill was put and agreed to.

Clause 22.

The question that clauses 22 and 23 stand part of the Bill was put and agreed to.

Rai Bahadur SATISH CHANDRA MUKHERJI: I beg to move that clause 24 be omitted.

Sir, I will only read sub-clause 1 which is relevant—"The Local Government may by notification declare that in any area specified in

the notification every person shall be bound for irrigation purposes or for the drainage of land which has been irrigated to afford a free passage to water through or over any land in his possession or under his control."

My objection, Sir, is to the principle of this clause. When this Bill is going to be passed into law and when the improvement levy is going to be realised from a person whose land will improve as a result of the the improvement scheme, the question is why should a person through whose land the water must go afford a free passage: it is not intelligible to me. It means practically a great encroachment upon private land and probably it is the first time that Government want to make people give land free of cost. So the question is whether this House will sanction that anybody and everybody will be bound to give free of cost access to such water. I think it is a great encroachment on the right of the people.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is one of the most important clauses of the Bill. If this clause is omitted the Bill will be practically inoperative. The flow of water is necessary; otherwise you cannot improve the dying rivers, nor can you take up irrigation projects. Therefore I hope the hon'ble member will kindly withdraw his amendment.

Mr. P. BANERJI: I also consider that the deletion of this clause is urgently necessary for the simple reason that it will cause unnecessary hardship to the people. Supposing a free passage is allowed by every owner of land according to the suggestion of an officer of Government, what will be the position? The position will be that every time that person will be disturbed. The silt, as is suggested by the Hon'ble Member, is not the only thing that will be necessary for improvement of land. What we find is that cultivators try to improve the fertility of the soil by manure, and if the system suggested by the Hon'ble Member is adopted and water flows all over the land and there is no embankment or obstruction, the manure that has been given by the cultivator to the land will be washed away by the tide. Therefore, if this state of things exists, the poor cultivators will suffer. It is not fair on the part of Government in order to give water to a land to compel another to give free passage not only for the main canals but also for feeder canals in different parts. If a free passage is given to a canal now, Government can later on make subsidiary canals for supplying water to different pieces of land, and therefore Government should make necessary arrangement for watering these places; otherwise difficulties will arise and there will be unnecessary litigation. If a dishonest tenant applies to the Collector and if the Collector cannot remove

the bund without detriment to the interests of the person through whose land water will pass, the section provides if that person fails to remove that bund he shall be liable on conviction by a magistrate for each such offence to a fine not exceeding fifty rupees and to a further fine not exceeding five rupees for each day after conviction during which the obstruction remains unmodified, and the Collector may cause the obstruction to be modified and may recover the cost of modification from such person.

In this way the poor tenants will be harassed and fined to the exorbitant amount of Rs. 50 and to a fine of Rs. 5 a day. The net result will be that the tenant will be deprived of his hearth and home and the law will take its course.

Mr. H. P. V. TOWNEND: Sir, may I say a few words against this amendment? It is quite impossible in Bengal to run a distributary channel to every field, because the areas of the individual fields are much too small. The system of distributaries to each field which exists in the Punjab with its large wheat-fields will not work in Bengal. Normally, the water flows from the canals or the main distributaries across the fields and no one objects. But there is the possibility that, in villages where there is faction, quarrelsome people may refuse to allow water to cross their fields simply to annoy their neighbours. So in order to supply the people with water it is necessary to have power to insist that the water should be allowed to pass over the fields. I think the amendment is quite unnecessary.

The amendment was put and lost.

Mr. SARAT KUMAR ROY: I beg to move that in clause 24(4), in the last two lines, the words "and may recover the cost of modification from such person" be omitted.

Sir, it may be that by the removal of an obstruction, occupiers of the land behind it will suffer from material injury. He may lose a substantial income he was deriving from his lands. Under such circumstances, it would be inequitable to compel him to part with his income and over and above that, to pay fines and thereafter to pay the cost of removing the obstruction.

Sir, the suggestion made in the amendment tabled by Mr. Satish Chandra Ray Chowdhury is a very fair one and I also think that the aggrieved person should be given compensation for the loss he will sustain. But if for the benefit of the general public he can be made to forego that, I do not find any justification for compelling him to pay costs for the removal of obstruction he had erected in exercise of his private rights of property.

Mr. H. P. V. TOWNEND: May I say just two words? I shall not be very long. In the first place, a man may claim compensation under section 27 if he has sustained any loss. It is also quite conceivable that the obstruction may be such that one or two cuts with a *kodali* may suffice to allow the water to run down. The cost will be very small if the man does it himself whereas it will amount to something if the Collector has to send a workman from a distance: it would be unfair to charge it to the general revenues.

I oppose the amendment on behalf of Government.

The amendment was put and lost.

The question that clause 24 stand part of the Bill was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Monday, the 12th August, 1935, at the Council House, Calcutta

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 12th August, 1935, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHOWDHURY, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Ministers and 93 nominated and elected members.

Obituary.

Mr. PRESIDENT: Gentlemen of the Council, we meet to-day under the shadow of a great loss. Sir Deva Prasad Sarbadhikary passed away early in the morning of Sunday—yesterday—at the ripe old age of 76. Sir Deva Prasad was a man of great parts - one of our Elder Statesmen, a veteran educationist, and legislator, a magnanimous philanthropist, and sound lawyer. He served his country faithfully and well with selfless devotion over a large number of years in various capacities.

In recognition of his public services, especially in the sphere of education, he was made a C.I.E. in 1914, a Knight in 1919 and a C.B.E. in 1926. He was an M.A., B.L., of Calcutta, LL.D. of Aberdeen University and an LL.D. of St. Andrew's University. He was also a member of the Lytton Committee for Indian Students in England.

He was at one time or another a member of the Bengal Council and the old Imperial Council. He served also in the Assembly and Council of State. He was a Vice-Chancellor of the Calcutta University and an eminent classical scholar in Sanskrit. He was a member of the Government of India Deputation to South Africa and served as a delegate for India on the League of Nations at Geneva. For several years he was a member of the Corporation of Calcutta.

There was hardly any movement for social and educational improvement of the people of Bengal with which he did not identify himself in one way or another.

Bengal can ill-spare a man of the character and type of the late Sir Deva Prasad Sarbadhikary whose death we sadly mourn. For

years together he filled a large space in the public life of his great country, and it will be very difficult to fill up the gap which his death has caused in the ranks of our foremost workers.

It may be your wish, gentlemen, that a message of the Council's deep sympathy should be sent to the bereaved family. I would ask you, gentlemen, kindly to rise in your places to signify your approval.

(Pause.)

Mr. PRESIDENT: Thank you, gentlemen, the Secretary will take the usual steps.

STARRED QUESTIONS

(to which oral answers were given)

Cess revaluation in Jessore.

*28. **Maulvi SYED MAJID BAKSH:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether cess revaluation under the new Cess Act has been ordered for Jessore?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) when the revaluation work is actually going to begin; and

(*ii*) what is the cause of the delay of the work being begun?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Brojendra Lal Mitter): (*a*) Yes.

(*b*) (*i*) The revaluation work has already been started.

(*ii*) Does not arise.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state if any estimate has been framed as to whether the total amount of the cess will be increased as a result of the revaluation work?

The Hon'ble Sir BROJENDRA LAL MITTER: No estimate has yet been made.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state the year in which the last valuation was made?

The Hon'ble Sir BROJENDRA LAL MITTER: 1915.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state the reasons for which this revaluation work has been started?

The Hon'ble Sir BROJENDRA LAL MITTER: In pursuance of persistent requests from the people of the district.

Maulvi ABDUL HAKIM: Is it the intention of Government to increase the cess this year?

The Hon'ble Sir BROJENDRA LAL MITTER: Government have no such intention.

Irrigation works in East Bengal.

*29. **Maulvi ABDUL HAKIM:** (*a*) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state whether any works or projects have been made under the Bengal Irrigation Act purely for the improvement of agriculture in the districts of the Chittagong, Dacca and Rajshahi Divisions since the Act came into force?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to lay on the table a statement showing

(*i*) the names and nature of those works or projects;

(*ii*) the amount of money spent for those works or projects;

(*iii*) the localities where those works or projects have been done; and

(*iv*) the annual maintenance costs for those works or projects?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Khwaja Sir Nazimuddin): (*a*) and (*b*) The member is referred to the reply given by Government to the question asked by him in the August session of 1932. The position has not changed in the interval.

Rai Bahadur SATYENDRA KUMAR DAS: With reference to the answer that the position has not changed since August, 1932, are we to understand that there was no expenditure on irrigation works since then?

The Hon'ble Khwaja Sir NAZIMUDDIN: Yes, Sir.

Hunger-strike of prisoners.

*30. **Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) the number of prisoners who went on hunger-strike indicating the jails, if possible, where the strikes occurred, during the six months ending on 30th June, 1935;

(*ii*) what steps have been taken by the Government to ascertain and remove the grievances of these persons; and

(*iii*) whether any prisoner has died as a result of the hunger-strike?

(*b*) If the answer to (*a*) is in the affirmative, how many have so died?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. R. N. Reid): (*a*) (*i*) The total number of prisoners who went on hunger-strike during the period mentioned was 41. The jails concerned were the central jails at Alipore, Presidency, Midnapore and Dacca; the district jails at Krishnagar and Hooghly; and the sub-jail at Gopalgunj.

(*ii*) The grievances have been enquired into in every case. Most of them were frivolous on which no action has been taken. In others the alleged grievances related to concessions to which on account of their class the prisoners were not entitled and they have been informed accordingly.

(*iii*) No.

(*b*) Does not arise.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any of these persons have been punished for going on hunger-strike?

The Hon'ble Mr. R. N. REID: Yes, Sir.

Mr. SHANTI SHEKHARESWAR RAY: How many of them have been punished?

The Hon'ble Mr. R. N. REID: I cannot give the figure offhand, Sir.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether all those prisoners belong to the *bhadralok* class?

The Hon'ble Mr. R. N. REID: I think so, Sir.

Kala-azar treatment.

***31. Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state the number of treated and untreated cases of kala-azar patients in Bengal, year after year, for the last 10 years?

(*b*) Is it a fact that the number of treated and untreated cases of kala-azar is increasing in Bengal year after year?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state what special measures the Government intend taking to check the disease?

(*d*) Will the Hon'ble Minister be pleased to state the method by which the Government keeps the record of untreated cases of kala-azar in Bengal?

(*e*) Has the attention of the Government been drawn to the fact that a large number of kala-azar patients stop treatment without completing the course?

(*f*) If the answer to (*e*) is in the affirmative, what steps, if any, do the Government intend taking so that treatment of kala-azar may be made compulsory?

(*g*) Is the Hon'ble Minister aware that the Government of Assam have taken certain measures in hand and have successfully eradicated the disease from Assam?

(*h*) If the answer to (*g*) is in the affirmative, do the Government intend taking action on the lines followed by Assam?

(*i*) Is it a fact that the Government intend stopping free distribution of anti-kala-azar medicines to district boards, municipalities and other public bodies?

(*j*) If the answer to (*i*) is in the affirmative, will the Hon'ble Minister be pleased to state the reason of such stoppage?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Sir Bijoy Prasad Singh Roy): (*a*) A statement showing, district by district, the number of kala-azar cases admitted for

treatment during the 10 years from 1924-1933, is placed on the table. No information as to the actual number of untreated cases of kala-azar patients in Bengal is available.

(*b*) From the statement referred to in the answer to clause (*a*), the Director of Public Health has expressed the opinion that "kala-azar seems to have taken an upward turn from its gradual course of decline, during the last few years." No definite statement can however be made in the absence of figures relating to untreated cases.

(*c*) An annual grant varying from Rs. 50,000 to Rs. 70,000 is distributed among the local bodies for anti-kala-azar work.

Kala-azar specifics are also supplied to them free of cost.

(*d*) The member is referred to the answer to clause (*a*). No record is kept.

(*e*) It is a fact that some kala-azar patients do not complete the whole course of treatment consisting of a certain number of injections of kala-azar specifics.

(*f*) Government do not intend at present to force kala-azar patients to undergo a course of treatment.

(*g*) Government are aware that since 1920 special regulations under the Indian Epidemic Diseases Act have been adopted by the Assam Government against the spread of kala-azar in selected areas notified for this purpose on the representation of the Director of Public Health or Civil Surgeon. But Government have no information that the disease has been eradicated from Assam.

(*h*) The member is referred to the answer to clause (*f*).

(*i*) No.

(*j*) Does not arise.

Number of kala-azar cases admitted for treatment referred to in the reply to clause (a) of starred question No. 31.

Districts.	1924.	1925.	1926.	1927.	1928.	1929.	1930.	1931.	1932.	1933.
(1) Burdwan ..	1,513	2,033	2,294	3,234	3,078	2,648	3,340	3,407	2,373	2,679
(2) Birbhum ..	79	44	34	47	41	44	64	54	63	74
(3) Bankura ..	37	60	165	2,048	46	66	100	138	101	71
(4) Midnapore ..	193	440	438	2,716	1,453	1,217	1,179	1,258	1,097	1,025
(5) Hooghly ..	7,445	5,031	3,896	4,388	5,532	3,622	3,760	3,249	2,339	2,460
(6) Howrah ..	5,675	4,327	2,558	3,632	2,738	1,808	1,207	955	765	816
(7) Calcutta ..	8,133	11,228	9,947	13,278	12,218	10,640	6,922	6,322	4,764	5,373
(8) 24-Parganas ..	18,324	27,950	24,709	25,584	20,789	14,384	11,503	9,155	5,873	7,737
(9) Khulna ..	3,594	8,450	9,404	6,861	4,903	3,183	3,724	4,813	5,717	7,281
(10) Jessore ..	5,553	8,641	6,580	17,741	7,008	5,563	4,807	5,014	5,655	9,206
(11) Nadia ..	8,206	7,596	5,653	8,815	8,075	7,485	6,824	5,549	5,415	5,579
(12) Murshidabad ..	1,377	2,296	3,721	2,876	2,063	2,696	3,947	5,737	9,309	9,192
(13) Rajshahi ..	10,891	15,820	18,076	19,001	12,039	11,921	11,675	9,681	11,026	15,369
(14) Darjeeling ..	398	278	247	308	571	450	342	356	653	951
(15) Jalpaiguri ..	204	325	833	818	1,992	1,148	1,091	748	795	958
(16) Rangpur ..	3,306	5,224	5,385	6,584	5,642	5,436	3,479	3,356	3,433	5,528
(17) Dinajpur ..	2,016	2,984	3,046	3,311	4,493	3,703	2,730	2,992	3,715	6,628
(18) Bogra ..	3,971	4,890	4,304	5,119	3,340	3,494	876	1,758	1,655	1,775
(19) Pabna ..	892	1,194	2,981	3,726	3,499	3,752	2,376	2,748	1,496	1,039
(20) Malda ..	5,596	4,890	4,304	5,119	3,340	3,494	4,173	5,326	9,075	8,764
(21) Dacca ..	4,977	7,539	9,021	7,617	8,100	6,098	5,403	5,980	7,290	6,524
(22) Mymensingh ..	8,690	16,939	9,774	7,452	6,590	5,325	4,620	3,621	3,181	4,258
(23) Faridpur ..	3,718	6,911	6,296	6,418	6,063	4,318	3,053	3,205	3,258	4,638
(24) Bakarganj ..	5,941	13,518	12,859	9,293	6,456	6,008	3,963	4,588	5,334	8,822
(25) Chittagong ..	323	1,328	1,754	2,429	1,578	1,401	1,411	1,751	1,780	1,910
(26) Noakhali ..	13,563	9,437	6,274	4,964	3,012	2,419	3,011	2,726	4,663	5,807
(27) Tippera ..	14,270	19,544	9,579	8,734	8,310	4,849	4,638	5,664	5,015	4,973
Total ..	139,085	188,944	164,696	180,074	141,970	114,845	110,017	101,151	105,840	129,539

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state the reasons why in the year 1927 the number of patients for Jessore and some other districts was abnormally high?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is more than I can say.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether any investigation has been carried out to find out why kala-azar has taken an upward turn?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: That is the usual feature of the disease.

Rai Bahadur Dr. HARIDHAN DUTT: In view of the fact that kala-azar has been described as a preventible disease, how is it that although the disease has taken an upward turn since 1931, no definite step has as yet been taken to check this upward course?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: It may be due to the fact that kala-azar patients do not undergo the full course of treatment.

Rai Bahadur Dr. HARIDHAN DUTT: Has the Government any power to compel kala-azar patients to undergo a full course of treatment?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Yes, Sir, under the Indian Epidemic Diseases Act.

Rai Bahadur Dr. HARIDHAN DUTT: How is it then that some of these cases are allowed to be treated in hospitals where there is no use of kala-azar specifics?

The Hon'ble Sir BIJOY PRASAD SINGH ROY: Government have no information on that point. As a matter of fact, kala-azar patients are treated in hospitals which are supplied with kala-azar specifics.

Erosion of Madaripur town.

*32. **Rai Bahadur AKSHOY KUMAR SEN:** (a) Will the Hon'ble Member in charge of the Irrigation Department be pleased to state what steps, if any, the Government have taken for protection of the Madaripur town from the erosion of the river Arial Khan?

(b) If no steps have yet been taken, are the Government considering the desirability of taking immediate steps in the matter?

The Hon'ble Khwaja Sir NAZIMUDDIN: (a) and (b) The attention of the member is drawn to Government *Communiqué* published in March last, a copy of which is placed on the table.

Communiqué referred to in the reply to starred question No. 32.

GOVERNMENT OF BENGAL,

CALCUTTA, THE 28TH MARCH 1935.

Erosion of the Madaripur town by the river Arial Khan.

Government have had under their consideration the rapid erosion of the town of Madaripur that has occurred during the last flood season and the requests of the Municipal Commissioners and others that steps should be taken to protect the town by the construction of a brick mattress.

2. For some years past the river Arial Khan has been in a highly active state and has been cutting away the land along its right bank. The attack has moved gradually downstream and has now reached Madaripur. The force of the river at this point is very great, as the current is swift and its depth in the flood season as much as 65 feet.

3. The Governor in Council has carefully considered all suggestions for the preservation of the town, but after detailed examination of the various measures suggested Government have been forced reluctantly to the conclusion, that having regard to the condition of the river the prospect of permanently averting the danger to the town by means of such protective works as it would be practicable to undertake is not such as to warrant them in incurring the expenditure involved. If it were merely a question of deciding whether certain heavy expenditure should be incurred once and for all the case would be much simpler. But the action of the river is incalculable and there is not only a risk but practically a certainty that further large expenditure would have to be continuously incurred as the river varied its point of attack. The best that could be expected from such measures would be that the destruction of the town should be postponed. There being unfortunately no ground for hoping that the recent increase in the activity of the river will abate for many years to come, the ultmate destruction of the town cannot but be regarded as inevitable. The loss which that destruction will entail is serious enough without adding to it further large sums of money fruitlessly spent.

4. Government have accordingly decided not to undertake any protective work of a permanent character, but will make alternative provision for Government establishments on a new site, the location of which will shortly be determined.

Levy of cesses in Chittagong.

*33. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether *tauzis* were corrected on the reduction of cesses in Chittagong at 12½ per cent. in 1933-34?

(*b*) Is the Hon'ble Member aware that the district board passed a resolution last year recommending the levy of cesses at the reduced rate?

(*c*) Is it not a fact that the Revenue Member intended to realise cesses at the reduced rate till the condition of Chittagong improves?

(*d*) Is the Hon'ble Member aware that the condition of Chittagong is becoming still worse and in future it will be more so?

(*e*) Are the Government considering the desirability of protecting people by levying cesses at the reduced rate in their present serious condition?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) The member is referred to the reply to his unstarred question on this point given on 20th December, 1934.

(*b*) Government have been informed that no such resolution was passed by the district board.

(*c*) Government have no information to this effect.

(*d*) No. Government's information is that conditions there are improving.

(*e*) Conditions in Chittagong do not appear to warrant any such proposal being considered.

Maulvi SYED MAJID BAKSH: With reference to answer (*d*), if the information of Government is that the condition of Chittagong is improving, why is it that a large number of *taluks* are being put up to sale at Re. 1?

The Hon'ble Sir BROJENDRA LAL MITTER: That was the case last year, but the condition has since improved.

A[illegible]ation of bidders at revenue sales in Chittagong.

*34. **Haji BADI AHMED CHOWDHURY:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware—

(*i*) that there is no house for accommodating witnesses, litigant public and the pleaders' and the muktears' clerks or for holding revenue sales in Chittagong;

(*ii*) that people in general suffer a good deal for want of such a house as they are not allowed to sit anywhere in the court building;

(*iii*) that during the revenue sale the *zamindars*, *talukdars* and bidders attending sale are unprotected from the sun and rains;

(*iv*) when heavy showers fall there is often unusual disturbance during sale and *mahals* are sometimes sold in confusion?

(*b*) Are the Government considering the desirability of erecting a house for the purpose mentioned above in the near future from any of the funds as noted below—

(*i*) the penalty or exemption fees of revenue sale;

(*ii*) the Jubilee Fund;

(*iii*) the fines realised from the criminal cases;

(*iv*) the sale fees realised from civil, certificate and other sales; or

(*v*) any other Government or other funds?

The Hon'ble Sir BROJENDRA LAL MITTER: (*a*) (*i*) Yes.

(*ii*) The inconvenience undoubtedly exists. The litigant public at present crowd the verandahs and corridors of the court buildings.

(*iii*) Some inconvenience is caused when the sales are largely attended.

(*iv*) No. Sales are held in one of the court rooms when it rains.

(*b*) Yes. The matter is under consideration.

High Court judgments in the case of Kamal Krishna Sarkar versus the Emperor.

*35. **Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a copy of the full text of the judgment of the Hon'ble Mr. Justice Lort-Williams and the Hon'ble Mr. Justice Jack of the

Calcutta High Court delivered on the 17th July, 1935, setting aside the conviction and sentence of one year's rigorous imprisonment passed on Srijut Kamal Krishna Sarkar by the Hon'ble Mr. S. K. Sinha, I.C.S., Chief Presidency Magistrate, on a charge of sedition under section 124A, Indian Penal Code?

(*b*) Do the Government of Bengal propose to take any notice of the views expressed by the Hon'ble Judge of the High Court?

The Hon'ble Mr. R. N. REID: (*a*) A copy of the judgment is laid on the table.

(*b*) Government always take notice of judgments of the High Court.

Copy of the judgment referred to in the reply to (a) of starred question No. 35.

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

CRIMINAL APPELLATE JURISDICTION.

The 17th July, 1935.

Present:

The Hon'ble Mr. Justice Lort-Williams

and

The Hon'ble Mr. Justice Jack.

Appeal No. 173 of 1935.

Kamal Krishna Sircar, ... *Appellant,*

versus

The Emperor, ... *Respondent*

For the Accused—Mr. B. Das, Counsel, with Mr. Hiran Kumar Roy.

For the Crown—Mr. D. N. Bhattacharya, officiating Deputy Legal Remembrancer.

LORT-WILLIAMS, *J.*—

In this case, the appellant was convicted of sedition under section 124A, Indian Penal Code, and sentenced to rigorous imprisonment for one year.

The speech in which he made the remarks complained of was delivered at Shraddananda Park on November 22, 1934. There was a meeting of the Bengal Youth League, and there was a red banner with hammer, sickle and star. The audience were composed mostly of Bengali youths of the student community and a number of speeches were made.

The accused moved a resolution, expressing emphatic condemnation of Government legislation as being calculated to gag the working class movement in India, in declaring the Communist party of India and various trade unions and labour organisations illegal, while anti-working class organisations like the Indian National Congress and the Congress Socialist Party had not been banned, and had been allowed to prosecute their aims of sabotaging the real class struggle for emancipating the toiling masses of India. The resolution also condemned the banning of the Communist party of India and other militant class organisations in the Punjab and Bombay.

In his speech the accused referred to these orders made by the Government, and explained that what was meant was that the Government by such banning of certain organisations were making it easier for the organisations which were carried on by the well-to-do and the capitalists one of the aims of which was to put down the workers' movement, to pursue the new reformist movements which were favoured by these other bodies. The rich, Gandhi and the Congress were all lumped together by the speaker as being supported by the Government. Then he proceeded to deal with the Round Table Conference and pointed out that at one time the Government had declared the Congress illegal, but that it was the object of the Government, and by reference the speaker obviously wanted to include all Governments, to encourage the reformist movement as a method of checking the revolutionary movement represented by the Communist party, the Bolsheviks and others. The rest of the speech was a mere recital of facts either of recent or past history. A great deal of it was obviously taken from well-known and quite respectable books which have been published recently about the world economic depression, the alleged failure of the capitalistic system, and the necessity of finding some other method for the distribution of goods. In fact, all that the speech amounted to was a recommendation of the Bolshevik form of Government as preferable to what is generally called the "capitalistic" form of Government, *i.e.*, the present form of Government. And all that the speaker did was to encourage the young men, whom he was addressing, to join the Bengal Youth League and to carry on a propaganda for the purpose of inducing as large a number of people in India as possible to become supporters of the idea of communism as represented by the present Bolshevik system in Russia.

It is really absurd to say that speeches of this kind amount to sedition. If such were the case, then every argument against the present form of Government and in favour of some other form of Government might be alleged to lead to hatred of the Government, and it might be suggested that such ideas brought the Government into contempt. To suggest some other form of Government is not necessarily to bring the present Government into hatred or contempt.

The learned Magistrate, who tried the case, obviously takes a strong view with regard to Bolshevism. He does not like it; neither do I, nor do a very large number of sensible people. That does not mean that one may not make speeches of this kind. I do not like quite a lot of things that people do constantly from day to day. That is no reason for suggesting that those people are guilty of sedition or of attempting to bring the Government into hatred or contempt.

In my opinion, it is not wise to institute prosecution against the makers of speeches of this kind. The effect of it is to give the impression that the Government are desirous of taking the kind of steps which, we understand, have been taken in countries like Germany and Italy, where the right of free speech has practically disappeared. So far as we know, that is not the present position in India. In any case, the present speech is a long way from coming within the provisions of section 124A, Indian Penal Code.

The conviction and sentence passed on the appellant are accordingly set aside and he is acquitted.

The appellant, who is on bail, will be discharged from his bail-bond.

Sd. J. LORT-WILLIAMS.

The 17th July, 1935.

JACK, *J.*—

I agree.

Sd. R. E. JACK.

The 17th July, 1935.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if, in view of the following sentences in the judgment, "it is really absurd to say that speeches of this kind amount to sedition" and "it is not wise to institute prosecution against the makers of speeches of this kind," Government propose not to institute prosecutions against the makers of speeches of this kind in future?

The Hon'ble Mr. R. N. REID: Government do not propose to discontinue prosecutions in cases where prosecutions are called for.

Mr. A. R. E. LOCKHART: Will the Hon'ble Member be pleased to state if it is the intention of the Local Government to appeal against this decision?

The Hon'ble Mr. R. N. REID: As far as I know, there is no appeal against this decision.

Mr. A. R. E. LOCKHART: Will the Hon'ble Member be pleased to state, in that case, if it is the intention of the Local Government to move the Government of India to bring in a Bill as to how people coming under the category can be dealt with?

The Hon'ble Mr. R. N. REID: Government have not reached the point of considering that proposal.

Mr. NARENDRA KUMAR BASU: With regard to answer (*b*), will the Hon'ble Member be pleased to state what sort of notice has been taken by Government?

The Hon'ble Mr. R. N. REID: Very careful notice.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Muslim Inspector of Schools.

17. Khan Bahadur A. F. M. ABDUR-RAHMAN: (*a*) Is the Hon'ble Minister in charge of the Education Department aware that the number of Muhammadan District Inspectors of Schools in the province is very small?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to consider the desirability of increasing the number either by special promotion or by direct recruitment?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Khan Bahadur M. Azizul Haque): (*a*) No.

(*b*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state the number of Muhammadan District Inspectors of Schools and Hindu District Inspectors of Schools?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: The number of Muhammadans holding the post of District Inspectors of Schools is

ten out of a total number of 27; that of Muhammadans holding the post of Divisional Inspectors of Schools is three out of a total of five; that of Muhammadan Second Inspectors of Schools is five and that of Assistant Inspectors for Muhammadan Education is also five. Out of a total number of 44 in the Inspectorate staff, 23 are held by Muhammadans.

Educational system.

18. Rai Bahadur SATISH CHANDRA MUKHERJI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that the Government are contemplating an examination of the educational system, in all its aspects, in vogue in this province?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of going into the question of—

(*i*) subjects of study to be taught to the boys according to their ages;

(*ii*) number of books to be taught to the boys;

(*iii*) fixation of books for study for at least a certain number of years;

(*iv*) matter of selection of books in high schools to make them uniform at least in each district;

(*v*) number of working hours per day;

(*vi*) the number of holidays; and

(*vii*) ensuring that the course of study and books prescribed are finished?

(*c*) Are the Government considering the desirability of making it a condition that the professors and lecturers of colleges should at least reside at the place where the college is situated and should not be daily passengers from other places?

(*d*) Are the Government considering the desirability of abolishing the system of closing the schools and colleges at mid-day on account of deaths or visits of high personages?

(*e*) Are the Government considering the desirability of examining the question of working of professors and lecturers in colleges?

(*f*) Are the Government considering the desirability of examining the whole machinery of the inspecting staff?

(*g*) Are the Government considering the desirability of examining the effect of the system of quarterly examinations conducted in schools?

(*h*) Are the Government considering the desirability of examining the system of selecting schools and colleges as centres for University and other examinations?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: (*a*), (*b*) and (*f*) The member is referred to Resolution No. 2517, dated 27th July, published in the *Calcutta Gazette* of 1st August, 1935.

(*c*) Government are prepared to look into the question, so far as Government colleges are concerned, but they are not aware that such a practice prevails.

(*d*) Government are not aware of any such systematic practice.

(*e*) So far as Government colleges are concerned, they have already examined the position.

(*g*) Government have examined the question and have decided that no uniform system need be enforced.

(*h*) This is a matter primarily for the University.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state whether it is the intention of Government to invite public opinion on the Government Resolution referred to in the answer?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: My friend will find from the last paragraph of the Resolution itself that Government have already invited public opinion.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state whether this Council will be given an opportunity of discussing this question?

The Hon'ble Khan Bahadur M. AZIZUL HAQUE: There has not yet been any such desire on the part of the Council.

GOVERNMENT BUSINESS

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Development Bill, 1935.

(Discussion on the Bengal Development Bill, 1935, was resumed.)

Rai Bahadur AKSHOY KUMAR SEN: I beg to move that in clause 25 (3), in the last two lines, the following be omitted, namely—

"and shall not be questioned in any court or in any other manner whatsoever."

Sir, the clause as we find it, is a very vague one, and we do not understand what the intention of Government is in the matter of framing clauses of this nature. The clause runs thus—

"The Local Government may from time to time publish by notification a list of rivers or depressions which it intends to declare to be dead or decayed rivers.

In any list published under sub-section (*1*) any river or depression may be described either by name or by reference to its geographical situation.

After the expiry of a period for objection to be mentioned in a notification under sub-section (*1*), the Local Government shall consider the objections and suggestions, if any, received by it and thereafter may, by notification, declare any river or depression notified under that sub-section to be a dead or decayed river, and such declaration shall be final and shall not be questioned in any court or in any manner whatsoever."

Sir, if the intention of the Government is to make the provision so wide and so vague as appears from the clause itself, it is quite natural that apprehensions must arise subsequently in the mind of the public after the passing of the Bill into an Act. If the question is to be made final by the publication of the list, then it will be highly dangerous, especially as the jurisdiction of the civil court to declare the legitimate title to such land of proprietors, tenureholders or *raiyats* which had been declared to be the bed of a dead or decadent river and to the soil of which they had acquired a right, is going to be barred. Sir, clause 24 deals with private lands, and in that clause we find that if any obstruction or obstacle is put by any person in his own land, he will be compelled, after having been served with a notice to remove that obstacle or obstruction, to modify any such obstacles in such manner and within such period as may be specified in the order. Then comes clause 25. What is the intention or purpose here of making a list? What sort of objection is contemplated by Government in this clause when we find that the list would be final and could not be questioned in any civil court or in any manner whatsoever? If it is a fact in a particular case that the bed of the river is the property of a landholder and that that landholder has been paying revenue for that land, then the preparation of such a final list, which has no chance of any modification even by a court of law, is highly dangerous to him. If any *zemindar* had been in legal possession of any land which existed at the time of the permanent settlement and for which he has been paying the revenue, then, even if that land was submerged into the bed of a river subsequently, the *zemindar* may rightly and legally claim the bed of the river as his own. Sir, if the intention of Government is to hear objections from such persons here in Calcutta and thereby to debar the civil courts from having any jurisdiction, there will practically be no relief or remedy.

Sir, Government will make the list with the help of their local agencies, that is, through their Deputy and Sub-Deputy Collectors who will prepare and forward their lists to their respective Collectors who will, in their turn, send them on to Government. Then Government will call upon the people of particular localities to place their objections, if any, and they will have to come over to Calcutta to place them before Government. The Hon'ble Member may here give an assurance that we need have no apprehensions, but it is a fact that such assurances of the Hon'ble Member will not find a place in the statute book, and when the Bill will become the law of the land, the law courts will look into the sections only and not to the intentions which might have been expressed here. In that view, my submission is that the clause as framed, is highly objectionable.

It may be said that these *kanungoes* or revenue officers—Deputy and Sub-Deputy Collectors—are trained in this matter and when they prepare these things they look into the maps that may be available in the Collector's *sherista*. My submission is that *thak* maps may be available from 1857 and 1859 at the latest and revenue maps from 1859 and 1860, but long before that in 1793 the permanent settlement was made and there was no map at that time, not even a survey map; there were only papers regarding the quinquennial and *chauhuddi bundis* and these will certainly not be gone into at the time of making these things as they are most complicated and the proprietors or tenure-holders or *raiyats* holding lands will not have any opportunity of placing these papers before any court of law.

Sir, another aspect of the case which I should like to mention is that a person may be in adverse possession of some land before diluvion although he may not be the proprietor of that land and if after diluvion a river passes over that tract of land and that tract remains submerged for several years and then if the river bed becomes dry he may be asked any time to produce oral and documentary evidence showing that he has a right over the bed of the river which has dried up. In that case the maps do not help at all. In such a case he must go to the civil court for a decision on these questions of adverse possession: the question is whether the river was one which existed at the time when the permanent settlement was made, or whether the bed of the river was the bed of the same river which flowed through that part, or that the river had changed its course after the permanent settlement; all questions of adverse possession or of right as a tenureholder or a right of a person having proprietory right cannot be gone into by these Deputy and Sub-Deputy Collectors and by the Local Government in Calcutta by having oral or documentary evidence before them such as collection papers and so on. In a case like this of a river bed becoming dry, although it might be the property of a tenureholder or a *raiyat* or a *zemindar*, as the case may be, if the Local Government want to dredge that bed of the

river they would have to follow the procedure laid down in the Land Acquisition Act and the persons who are entitled to get compensation should be allowed that compensation. If this matter be decided summarily, I submit that it will be highly detrimental and prejudicial to the interests of the persons affected. Sir, I therefore propose that the last two lines of clause 25 (*3*), namely, "and shall not be questioned in any court or in any other manner whatsoever" be deleted, so that any objections regarding this matter, namely, whether it is really the bed of a river may be gone into as the clause says "such declaration shall be final and shall not be questioned....." If any person is aggrieved with that declaration, then he may institute a suit in a court for having that declaration set aside. The apprehension is that people's rights may be jeopardised and that doubt would be thrown on the titles of properties. So, I submit that the Hon'ble Member will consider this view of the matter and an apprehension does really arise in the minds of everybody. The Hon'ble Member might say that this is not the intention of Government and he might give such an assurance. I submit respectfully that he should consider the fact that the courts will only see the wording of this section as embodied in the Act, and they will not look into the proceedings of this Council. What is the necessity of putting in the words I object to as a part and parcel of this provision? I hope the Hon'ble Member will kindly consider this aspect of the case and try to make this clause acceptable to the people so that it may not cause any hardship whatsoever.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, the object of this clause is merely to have evidence of what is a dead or dying river. By this clause Government do not intend to convert private rivers into Government property; and all that we want to make sure is that the particular beds of rivers are the beds of rivers that are dead and decayed. I may state that there is no suggestion that by the revival of dead and dying rivers the ownership of the beds will be converted from that of the person to that of Government. The ownership will remain with the owner; all that we intend to do is to revive dead and dying rivers to their former position and to have water flowing through them and we cannot do that unless we acquire the dead and dying rivers. That is the question we have to consider. The question of compensation and claims are dealt with in sections 26 and 27 and they do not arise at all now. In view of my explanation, I hope the mover will withdraw his motion.

The amendment was then put and lost.

Kazi EMDADUL HOQUE: Sir I beg to move that in clause 25 (*3*), in line 7, for the words "and shall not be" the word "unless" be substituted.

Sir, my friend the Rai Bahadur, in moving his amendment, said that he wanted the last two lines to be omitted——

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, may I rise on a point of order? In view of the decision of the Council on amendment No. 630, I think this amendment does not arise at all.

Mr. PRESIDENT: I have no doubt in my mind that the decision of the Council in regard to amendment No. 630 governs this amendment as well. As the House has already decided otherwise, I think this amendment need not and cannot be moved now. It falls to the ground automatically.

Clause 25.

The question that clause 25 stand part of the Bill was put and agreed to.

Clause 26.

The question that clause 26 stand part of the Bill was put and agreed to.

Clause 27.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 27 (*a*), in line 3, the words and figures "or section 24" be omitted.

Sir, as the House will see my amendment is a very modest one, as I want only the deletion of two words and two figures. Section 27 says that no one who has had any damage caused to him by the prohibition, removal or modification of an obstruction under section 23 or section 24 will have any claim to any compensation. I want the words "or section 24" to be omitted. As the House will see, section 24 gives the power to modify obstructions to the passage of water through or over land. It may be, Sir, that these obstructions have been on the land for any number of years or even half a century. There have been rights acquired and subinfeudations made with regard to these lands. In such a case to say that no compensation shall be given or rather that the man shall not be entitled to compensation is, I submit, wholly unjust. Whether, in any case, compensation should or should not be given is one matter, but to say that a person shall not be entitled to any compensation but would have to depend on the charity of the Collector is, I submit, neither just nor proper. I therefore submit that the words "or section 24" be omitted from clause 27 (*1*) (*a*).

Mr. H. P. V. TOWNEND: Sir, the intention of Government is that people whose land is injuriously affected by anything done under section 24 and who have a genuine claim to compensation should be allowed reasonable compensation. Mr. Basu is of the same opinion but wants the compensation to be awarded by civil courts. It looks, however, as if his amendment would defeat its own object. We have been advised that the effect of accepting his amendment for the deletion of the words "or section 24" would be that people would be debarred from obtaining any compensation whatsoever from any source. They would not be able to get it from the Collector and they could not go to the courts. No one apparently is entitled to claim damages when an order of this kind has issued under a power deliberately given by a Legislature in a statute. (MR. NARENDRA KUMAR BASU: I do not think so.) That is what we were told: I am not a lawyer, as the House is aware. The position is summed up in this quotation, which has been brought to my notice, from Halsbury's "Laws of England":—

"An act or omission which in itself may constitute a nuisance..... may have been specifically authorised by statute and may therefore not be actionable."

That was the impression we had. The thing is that, if it is definitely allowed by statute to enforce the passage of water across a man's land, he would, it seems, be debarred from claiming damages, unless the statute provided for such claims. That seems to be commonsense. But if Mr. Basu is right and if the aggrieved persons can after all go to the civil court, then we run up against the alternative principle that "absence of provision for compensation will generally be found to indicate that private rights are not to be affected." That also is from Halsbury; it refers I think to the powers of private companies in England. If this is so, and if we could not use clause 24 where private rights could be affected by it, then we should not be able to use clause 24 at all. (A VOICE: Rather an absurd position.) It is obvious that Government would never try to deny a man compensation if, by any mistake of an officer of the Irrigation Department, too much water was sent across the land from a controlled work and real damage resulted. If the damage were caused by water which came from a river in flood, clause 26 would protect Government from having to pay anything.

I sympathise with Mr. Basu's attitude, but in view of the probable results, I would ask him to withdraw his amendment.

The amendment was put and lost.

The question that clause 27 stand part of the Bill was put and agreed to.

Clause 28.

Kazi EMDADUL HOQUE: I beg to move that after clause 28(2), the following sub-clause be inserted:—

"(2a) All costs incurred by a successful claimant shall be recovered by him in proportion to his success out of the monies realised as improvement levies under this Act."

Sir, the clause says that if in consequence of any improvement work in respect of which an improvement levy has been imposed, any person suffers any damage or injury he will be able to prefer claim before the Collector for compensation, and the Collector after such enquiry as he deems proper and after considering any representation which may be made to him, will determine the amount of compensation if any. So far, so good. But, Sir, it may not be possible for all persons to make representations or to put their case properly to the Collector. There will be hundreds of persons who have not that much knowledge and who cannot put their case to the Collector properly, and for that purpose may require the help of a lawyer. Suppose a man wants to make a representation to the Collector, for a lawyer's services he will have to undergo a lot of expenditure. Why in such a case will that man not get the cost which he has incurred in fighting his case? I think, Sir, in such a case it is proper and meet that such a man should have the cost, at any rate in proportion to his success out of the monies realised as improvement levy under this Act. I hope the Hon'ble Member will accede to this request.

The Hon'ble Khwaja Sir NAZIMUDDIN: It is very difficult to decide what the hon'ble member means by "in proportion to his success." How is that going to be decided, and what does it mean? Then the member goes on to say "out of the money realised under this Improvement Act." The improvement levy merges into the general revenue as revenue. Therefore, wherever we give compensation if cost has been incurred, this cost is included in it. But certainly if there is any cost incurred in granting compensation actual cost will be included in that. But if we accept this amendment as it stands, even if that cost is not incurred, supposing a man does not engage a lawyer at all, this cost will have to be given. I hope the hon'ble member will withdraw his amendment.

The amendment was, by leave of the Council, withdrawn.

Babu JATINDRA NATH BASU: I beg to move that in clause 28(3), in line 3, before the word "apportionment, the following words be inserted:—

"Amount or the."

The reason why I move this amendment is that in line——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is this amendment in direct contradiction to clause 27 just accepted? By clause 27 the House accepted that no one shall have a right to any damage, but only may apply to the Collector for compensation. In this amendment it is sought to provide that the amount of compensation shall be subject to appeal.

Babu JATINDRA NATH BASU: My friend is making a mistake. In cases where compensation is allowed, the clause as it stands provides that the question of apportionment only of that compensation can be taken to a higher court. What I propose is that not only the question of apportionment of the compensation but also the amount of the compensation may be brought up before a higher court. Because, Sir, you give the Collector the primary authority to fix the compensation and there is no reference or appeal allowed to any other authority as to the amount of that compensation. The only provision that is made in the Bill is that the question may be taken up to a higher court for the only purpose of making an apportionment. This is in direct contravention of the principle adopted in the Land Acquisition Act where in cases of acquisition where the amount of the compensation is fixed by the Collector the party aggrieved may under section 18 of Act I of 1894 have the matter referred by the Collector to the higher court whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable or the apportionment of the compensation. Here, the claimant under the clause as it stands in the Bill is entirely barred from questioning the amount of the compensation. He is bound by the decision of the authority which for the first time decides the question of compensation. In other parts of this Bill, a reference is allowed to the Commissioner and the Board of Revenue, but in respect of the question of the amount of compensation the final authority is the authority which for the first time takes in hand the consideration of the question as to whether compensation should be allowed, and what should be the amount of the compensation, and his decision is to be final for all time. What I ask for is that there should be a right of reference from the authority which decides the matter as the primary authority, and the reference may also be on the question of the amount of compensation. That is the general principle of law.

Mr. NARENDRA KUMAR BASU: Sir, you have allowed this to be moved. I take it, you think it is in order, and I have pleasure therefore in supporting this amendment.

I submit that if the amount of compensation is fixed by the Collector, then in that case also the reference to the court ought to be allowed. Why should reference to the court be limited only to questions of apportionment, and not to the amount of compensation which is

certainly a more important matter than the question of apportionment? And if a reference to a civil court is allowed in the case of such a small thing as apportionment, I take it that the question of the amount of compensation allowed ought also to be open.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I think, Sir, that the wording of the section as in clause (3) of section 28 is according to the intention of the Act, namely, difference has been made between the determination of the actual amount to be realised as compensation and the apportionment of the amount between different claimants. In the first case it is primarily a case in which the revenue officers are competent to decide what the amount of compensation should be; therefore it has been provided that no reference should be made to the civil court. On the other hand, in the case of apportionment, it may entail questions of title, right between various claimants which cannot properly be decided by a revenue court, and therefore permission has been given in that case that reference could be made to the civil court. With very good reasons this differentiation has been agreed to——

Mr. PRESIDENT: I take it that you mean that objection can only be taken to the higher court with regard to apportionment, but the total amount determined by the Collector cannot be appealed against. This clause is only applicable with regard to questions of apportionment between different parties. So if the word "amount" is added, it will include the whole amount of compensation determined by the Collector. Don't you think it is out of place here, Mr. Basu?

Babu JATINDRA NATH BASU: I submit that besides this particular clause, we have nowhere laid down that the amount of compensation to be fixed by the Collector should be final. It is by this clause only that it is sought to make this provision. The clause has not been passed yet, so I am in order to bring forward this amendment——

Mr. PRESIDENT: Mr. Basu will you please go through clause 31B and clause 29 and see if you can modify your views?

Babu JATINDRA NATH BASU: Clause 31B is a different thing altogether. That provides that no suit should lie in a civil court; that is the same as under the land acquisition procedure. Therefore, the Land Acquisition Collector is the primary authority to fix the amount of compensation, and to make the necessary calculations about the valuation. He makes his award. If we ask the Collector to make a reference to the court then the reference may be in respect of all the matters to which I have referred just now. What I complain about this provision is that in all other sections of the Act where estimates

of the produce and various other factors have to be decided upon by the revenue authority that authority does it as the primary authority and then the person affected is given the right to go before the Commissioner to have that decision considered and if necessary altered, and from the Commissioner there is the right of revision given to the Board of Revenue so that on reference the Board of Revenue may revise the order of the Commissioner. Here you lay down the procedure that compensation for the first time shall be fixed by the Collector, and there is to be no authority, not even a revenue authority, to reconsider and revise his decision if a revision is necessary.

Mr. PRESIDENT: You want some revising authority to be laid down here? Is the procedure that you refer to to be found in other parts of the Bill?

Babu JATINDRA NATH BASU: Yes, the procedure is in other parts of the Bill.

Mr. PRESIDENT: But what about clause 29?

Mr. C. C. HOOPER: With reference to Mr. J. N. Basu's criticism of this clause may I point out that an appeal is provided in clause 29 against the decision of the Collector regarding the amount of compensation awarded: so there is already an appeal provided, and there is the revision by the Board of Revenue as regards the amount awarded by the Collector. So it is not correct to say that there is no appeal under the Bill.

Mr. PRESIDENT: Do you consider Mr. Basu's amendment as unnecessary or not in order?

Mr. C. C. HOOPER: I am not maintaining that the amendment is out of order. I am merely pointing out that there is some misapprehension——

Mr. PRESIDENT: Probably you mean that the amendment is in order, but that it is not necessary because what it seeks to achieve has been provided for in the Bill.

Mr. C. C. HOOPER: Yes, Sir.

Mr. PRESIDENT: It is a matter for Mr. Basu to decide whether he will withdraw his motion in view of clause 29 of the Bill. I have admitted the amendment, but whether it is necessary, in view of what has been provided in clause 29, it is for Mr. Basu to consider and decide.

Babu JATINDRA NATH BASU: I find that clause 29 provides for an appeal to the Commissioner of Division against any decision that may be passed by the Collector under clause 28(*1*), and clause 28(*1*) gives the Collector power to determine the amount of the compensation, so the amount of the compensation comes within the provisions of clause 29(*1*). I therefore think the amendment unnecessary and beg leave to withdraw it.

The amendment was then, by leave of the Council, withdrawn.

Babu HEM CHANDRA ROY CHOUDHURI: I beg to move that in clause 28(*4*), in lines 3 and 4, for the words "who dispute the apportionment of the compensation," the words "to the proceeding" be substituted.

Sir, the clause as it stands imposes the cost on the party which disputes the apportionment of the compensation, but there is no provision for imposing the cost on the person who opposes the petition of dispute against the apportionment of compensation. If a man who disputes apportionment be successful, there is no provision in the present Bill for him to get the cost from the opposite party. Here, as it is provided, the cost will be levied only on that party who will dispute the apportionment of the compensation. There is no provision in the Bill that he will get the cost if he succeeds in the dispute. By substitution of these words I intend to leave the discretion of the court in the matter unfettered. If the man succeeds he may get the cost from the opposite party, if he loses he will be saddled with the cost.

Mr. H. P. V. TOWNEND: Sir, the mover of the amendment has mistaken the position. The parties who quarrel over the apportionment are "the parties who dispute the apportionment of the compensation." Just as it requires two parties to make a quarrel, so it requires two parties to make a dispute. It is not a question of one party disputing an apportionment made by the Collector. The amount of the compensation will be decided by the Collector, but the Collector makes no apportionment.

This clause is taken absolutely *verbatim* from the Irrigation Act. At the same time, as the Legislative Secretary has pointed out, it is so worded as to make it appear that, whatever be the decision in the case, both parties must bear part of the costs. Even if a man was absolutely unjustified in claiming a share of the compensation he could not apparently be made to pay all the other party's costs: this would be absolutely wrong. With your permission, Sir, and the permission of the House I would like therefore to substitute the following for sub-clause (*4*):—

"(*4*) In every reference under sub-section (*3*) the costs shall be at the discretion of the court."

Babu HEM CHANDRA ROY CHOUDHURI: I beg leave of the House to withdraw my motion.

The amendment was then, by leave of the Council, withdrawn.

The question that—

"In every reference under sub-section (*3*) the costs shall be at the discretion of the Court" was put and agreed to.

The question that clause 28, as amended, stand part of the Bill was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 29(*1*) after the words "Collector under" the words and figures "section 15" be inserted.

The amendment was put and agreed to.

The question that clause 29 as amended stand part of the Bill was put and agreed to.

Clause 29A.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 29A, in line 2, the words, brackets, figures and letter "or under sub-section (*1*) of section 11A" be omitted.

It is merely consequential.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 29A in the last three lines for the words and figures "as if they had been awarded in a suit under the Code of Civil Procedure, 1908" the words "as a public demand" be substituted.

The amendment was put and agreed to.

The question that clause 29A, as amended, stand part of the Bill was put and agreed to.

Clause 30.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that for clause 30 the following be substituted, namely:—

"30. Notwithstanding anything contained in the Bengal Tenancy Act, 1885, when an improvement levy has been imposed in respect of any agricultural land— Restrictions on enhancement of rent of agricultural lands in notified area.

(*a*) the rent payable for such land at the time of the imposition of the levy or fixed thereafter in accordance with the provisions of clause (*b*) shall not be enhanced on account of—

(*i*) benefits derived from the construction of any improvement work, or

(*ii*) an increase in the productive powers of the land due to fluvial action;

(*b*) if a settlement is made of such land with a tenant thereafter, the rate of rent at which such land is settled shall not exceed the average rate of money rent payable, at the time of such settlement, by tenants of a similar class for land of a similar description and with similar advantages in the vicinity, and any rent in excess of such rate shall not be recoverable:

Provided that such average rate may be exceeded on the grounds specified in clause (*b*) or clause (*c*) of section 30 of the Bengal Tenancy Act, 1885, by such amount as would be allowable in a suit for enhancement of rent under the said section if the land had been settled with a tenant at such average rate at the time of the imposition of the levy.

A stipulation in any contract by which a tenant taking settlement of such land agrees to pay any amount in excess of such rent, otherwise than as *salami*, shall not be binding on such tenant to the extent of such excess."

This amendment is necessary in view of the fact that the recommendation of the Select Committee was rather ambiguous. What Government intended was to restrict the enhancement of rent on account of improved productivity of land due to improvement work; but they did not want to stop the landlords from increasing the rent under the Bengal Tenancy Act, if they made the improvement at their own cost. Therefore, in this amendment it has been made clear that if any landlord in a benefited area makes an improvement at his own cost and if he can establish a claim in the court for enhancement of rent on that

account, he will be allowed to do so. But, as far as enhancement of rent due to improvement work in a benefited area is concerned, the landlords are prevented from enhancing that rent from what it was before the improvement work was completed. By this clause Government intend that cultivators should retain the increased profits which accrue to them owing to this improvement work. It is true that a *salami* can be charged, but, as far as we can see, it is impossible to prevent that, because *salami* is never a part of the contract made. But we hope and trust that after the improvement work has been completed the income of the cultivators will be increased and, therefore, it will not be possible for the landlords to make the lands *khas* which are in the possession of their tenants. The reason why lands become *khas* is that the tenants cannot pay their rent owing to the failure of crops, or owing to bad crops, so that when the rent accumulates the landlords sue them and take possession of the lands. But if we place the tenants in a position to pay their rent annually and regularly, there is no likelihood of those lands becoming *khas*. Therefore, we hope that whatever the profits that may accrue from an improvement work in a benefited area they will remain with the tenant *minus* the amount that he will have to pay as the levy which will be imposed on him.

Mr. PRESIDENT: What I propose to do now is to put this amendment to vote and if it is accepted, it will go to replace the present clause 30 in the Bill. After that I shall take the relevant amendments on paper as amendments to this clause. I think the procedure suggested by me will be approved by the House.

(The House agreed unanimously to this course.)

The amendment was then put and agreed to.

(The Council was at this stage adjourned for 15 minutes.)

(After Adjournment.)

Maulvi ABUL QUASEM: Sir, I beg to mave that for clause 30(*a*) the following be substituted, namely—

"(*a*) the rent payable for such land at the time of the imposition of the levy shall not be enhanced on account of benefits derived from the construction of any improvement work or on grounds contained in sub-clauses (*c*) and (*d*) of section 30 of the Bengal Tenancy Act, 1885."

Although I have included in my proposed amendment words occurring in sub-clause (*a*)(*i*) of new clause 30, as moved by the Hon'ble Member, namely, "the rent payable for such land at the time of the imposition of the levy shall not be enhanced on account of benefits

derived from the construction of any improvement work," I would refer the Council to section 30 of the Bengal Tenancy Act. Now, Sir, sub-clause (c) of section 30 of the Bengal Tenancy Act, 1885, reads thus:—

"That the productive powers of the land held by the *raiyat* have been increased by an improvement effected by, or wholly or partly, at the expense of, the landlord during the currency of the present rent."

Sir, in view of this sub-section (c) of section 30 of the Bengal Tenancy Act, 1885, I do not see any reason why this Legislature should be enacting sub-clause (a) of this new clause 30—of course, the Council has already accepted that—because section 30 (c) makes it quite clear that the landlords are unable to claim an enhancement of rent only under the Bengal Tenancy Act, and sub-section (c) of section 30 makes it clear beyond all doubt that a landlord can claim an enhancement of rent only on account of improvement brought about by himself, or wholly or partly at his own expense. Now, Sir, that rules out the possibility of his claiming any enhancement of rent on account of any improvement work carried out at the expense of Government under the provisions of this Bill which is going to be enacted into law. So, Sir, I do not see the necessity of sub-clause (a)(i) of clause 30. Still, I have included it lest Government might object. So far as sub-clause (a)(ii) is concerned, that is, of course, taken *verbatim* from sub-clause (d) of section 30 of the Bengal Tenancy Act. About this there can be no objection on the part of Government. So far as my amendment is concerned, its object, I might explain, is to rule out the possibility of the landlord claiming an enhancement of rent on the ground of the productive power of the land having been increased either by landlord's improvement or by fluvial action. Government, in clause 30 has deliberately refused to recognise the possibility of any improvement being brought about by fluvial action caused by purely natural causes whenever Government has effected an improvement work at its own cost and without anybody else incurring any expenditure. If Government has done that, I do humbly submit before the House that Government should also leave out of consideration the possibility of any improvement being effected at the cost of the landlord. Suppose in an area after some improvement has been brought about by Government and it has taken half the profits resulting from that improvement, the landlord claims to have brought about some improvement and claims an enhancement of rent on account of the same. I would submit that where an area is going to be declared as decadent, it might be presumed that the landlord has all along been inactive—he has not moved his little finger to bring about any improvement. In that area Government has stepped in and has brought about an improvement. Government would still seem to recognise that it after an improvement has been effected by Government, the landlord steps in and brings about some additional improvement, he should be given an opportunity of

claiming enhancement of rent. I do think, Sir, that just as Government refused to recognise the possibility of the productivity of any soil being increased by fluvial action due purely to natural causes, so Government should rule that after Government has started its operations, the landlord cannot be expected to do any improvement work. I think that if Government proceeds on that assumption Government would be entirely right. Sir, what I am thinking of is that the poor tenant should not be left to struggle between two claimants on two sides—the Government claiming half the profits resulting from an improvement effected by it and the landlord claiming an enhancement of rent for improvement alleged to have been brought about by himself. What I fear is that between these two dangers the poor tenants will be developed out of existence. Therefore, Sir, I do humbly commend my motion to the acceptance of this House. I have only suggested that instead of saying all these things stated here in clause 30(*a*), Government may simply say that on the grounds contained in sub-clauses (*c*) and (*d*) of section 30 no enhancement should be allowed: and this, I think, will achieve what is intended by Government.

Mr. H. P. V. TOWNEND: Sir, one of the effects of accepting this amendment will be to prevent any enhancement of rent in the case of land settled after the imposition of an improvement levy. The only clause which allows enhancement of the rent of lands settled after the imposition of an improvement levy is the Hon'ble Member's new clause (*a*). He pointed out, I think, in his speech that the effect of the drafting of the Select Committee was to make rents permanently fixed if the lands were settled, after the imposition of an improvement levy, either for the first time or on resettlement when the lands had been resumed. On this ground alone the amendment would be somewhat objectionable. But there is also the fact that it is unjust to say that if a landlord carries out improvements to any land after the improvement levy has been imposed, he should not be allowed to fix a higher rent. Mr. Abul Quasem has pointed out in his speech that landlords rarely do make any improvements and very rarely claim any enhancement of rent. But if they do make any improvement they should have the right to an enhancement of rent. That they rarely make such improvements is a rather effective answer to his expression of fear that the tenant will be torn between two contending parties—the landlord and the Government. The landlord had not made any improvement in the land when there was no competitor in the field; it is therefore hardly likely that he will improve the land after Government has come forward with improvement works, when the tenant will be able to say that the improvement made in the land was made by Government and that therefore there is no ground for enhancement of the landlord's rent. It is not right, however, to take away the privileges given by the Bengal Tenancy Act merely because we are going to improve the lands. On this ground, Sir, I would oppose this amendment.

The amendment was then put and lost.

The motion that new clause 30 stand part of the Bill was put and agreed to.

Mr. NARENDRA KUMAR BASU: Sir, may I, with your permission, move that a new clause be inserted after the new clause 30? The motion runs as follows:—

"31(*1A*). No improvement levy shall be payable by any person unless a sufficient supply of water has been made available to him during the prescribed period."

Mr. PRESIDENT: Mr. Basu, this is undoubtedly supplemental in respect of one of the accepted clauses of the Bill. I admit that it does not clash with any of the accepted principles, but I am sure you will agree with me when I say that you want to insert this particular clause here which is not the right place for it. I very reluctantly admit it only because I am told that the Hon'ble Member in charge of the Bill has no objection to your moving it. I shall not prove obstructive to you, although I must repeat that I admit it reluctantly.

Mr. NARENDRA KUMAR BASU: Sir, I am very much obliged to you. The House will see that by the prescribed period I mean the period during which water should be made available to a tenant, to be prescribed by the Local Government; and if at the time when the Local Government says that water shall be supplied to a particular person, no water is supplied to him, I take it that he ought not to be made liable to pay this levy. It has been said, I do not know how many dozen times during the course of the debate on this Bill, that this Bill stands for taking a levy out of a person who makes a profit out of the water supplied to him. If there is no water supplied it cannot possibly be said that any improvement made in the yield of crops in that year is due to water supplied by Government. Government prescribed the time or the season of the year during which water should be supplied to the tenants and if during that time no water is made available to the tenant, I take it that Government do not intend to make any levy upon such a person. It is only to give expression to the avowed object of the Government that I want to make this section enacted. With these words I commend my motion to the acceptance of the House.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, an amendment somewhat similar to this was moved and I then explained the position of Government. There is ample provision in the Act that in cases of failure of supply of water if there is any damage to the crop or there is a deficiency in the yield of crop, then the person is entitled to compensation. But if this amendment is accepted, every one will come up

with petitions for evading the payment of levy on the ground that he has not received a sufficient supply of water. Over and above that it is possible to consider that a man may get a certain amount of water and have an improved crop, and it is also possible that if he had received the full quantity of water he would have got a bumper crop. But if this amendment is carried, it will mean that all that he has got to prove is that he had insufficient quantity of water and he would go without paying any levy whatsoever. The levy is only payable owing to an improvement work where in any case water is to be supplied, and owing to this supply of water there is an increased profit and if there is no increase of profit then the levy cannot be paid. But to tie the hands of the Government down and to say because of insufficient water the levy will not be paid, will make the working of the Act very difficult, practically impossible. Now that we have reached clause 30 and the Council have given powers to Government and have relied on Government to use these powers properly, I submit that in this matter they would also trust Government to see that no injustice is done to the tenant. The same apprehension that in spite of the fact that though they do not give water, levy will be realised, is, I am afraid, not justified because under the whole Act, throughout the Act, responsibility has been laid on the shoulders of Government to see that no injustice is done and there is no reason why in these circumstances Government will be unfair. As I have said before, one of the main reasons is that by insufficient supply of water you cannot get improved crops. For example, we have been advised by experts that you can be assured of a bumper crop if during the three periods the cultivator gets a proper quantity of water regularly. But it is possible that if during October and November they do not get a requisite amount of water and the crop is not destroyed and if there has been a good supply during June, July and September, you can get a fair and more improved crop than what they used to get before. So there is no justification on those grounds to give a complete remission of levy. It is possible, if the profits are less, to reduce the levy by granting remission. But there is no justification whatsoever for letting him off the levy completely. On these grounds I hope the hon'ble member will withdraw his motion.

Dr. NARESH CHANDRA SEN GUPTA: May I ask the Hon'ble Member, has he got any constructive suggestion to make to meet the object of this motion beyond mere absolute utter reliance upon the justice of the local officials?

The Hon'ble Khwaja Sir NAZIMUDDIN: If the man does not get remission, he can appeal against it. An appeal is provided for and remission is there in all these cases.

Mr. W. H. THOMPSON: May I ask the Hon'ble Member what would be the meaning of this amendment if applied to a drainage scheme in which water is to be taken away and not supplied?

The Hon'ble Khwaja Sir NAZIMUDDIN: The answer is obvious. It will not apply. (A VOICE: Obviously.)

Maulvi SYED MAJID BAKSH: I heard the Hon'ble Member say that in case of insufficient supply of water a tenant will not be entitled to receive compensation. [A VOICE (IRONICALLY): No, no, remission, not compensation.]

The motion being put, a division was called with the following result:—

AYES.

Ali, Maulvi Syed Nausher.
Baksh, Maulvi Syed Majid.
Bal, Rai Bahadur Sarat Chandra.
Banerji, Mr. P.
Barma, Babu Premhari.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hussain, Maulvi Muhammad.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mukhopadhyaya, Rai Sahib Sarat Chandra.
Nag, Babu Jadu Lal.
Quasem, Maulvi Abul.
Rahman, Khan Bahadur A. F. M. Abdur-.
Raikat, Mr. Prasanna Deb.
Ray, Babu Nagendra Narayan.
Roy, Mr. Saileswar Singh.
Sahana, Rai Bahadur Satya Rinkar.
Samad, Maulvi Abdus.
Sen, Rai Bahadur Akshoy Kumar.
Sen Gupta, Mr. Naresh Chandra.

NOES.

Ahmed, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Arthur, Mr. G. B.
Bal, Babu Lalit Kumar.
Banerji, Rai Bahadur Keshab Chandra.
Banerji, Rai Bahadur Shailendra Nath.
Basu, Mr. S.
Chanda, Mr. Apurba Kumar.
Chaudhuri, Khan Bahadur Maulvi Nafazar Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Cooper, Mr. C. G.
Dutt, Babu Gurupreend.
Ghosh, Rai Bahadur Satyendra Kumar.
Faroqui, the Hon'ble Nawab K. G. M., of Ratanpur.
Fawcus, Mr. L. R.
Gilchrist, Mr. R. N.
Gladding, Mr. D.
Haldar, Mr. S. K.
Hagan, the Hon'ble Khan Bahadur M. Azizul.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Khan, Maulvi Abi Abdulla.
Khan, Khan Bahadur Maulvi Hashem Ali.
Khan, Mr. Nazar Rahman.
Lamb, Mr. T.
Lockhart, Mr. A. R. E.
Mitter, Mr. S. C.
Mitter, The Hon'ble Sir Brojendra Lal.
Nazimuddin, the Hon'ble Khwaja Sir.
Rahman, Mr. A.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, the Hon'ble Mr. R. R.
Rosburgh, Mr. T. J. V.
Roy, the Hon'ble Sir Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sachse, Mr. F. A.
Sulaiman, Maulvi Muhammad.
Stevens, Mr. H. S. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Walker, Mr. R. L.
Williamson, Mr. H. R.
Woodhead, the Hon'ble Sir John.
Wordsworth, Mr. W. S.

The Ayes being 26 and the Noes 46, the motion was lost.

The question that clause 31 stand part of the Bill was put and agreed to.

The question that clause 31A stand part of the Bill was put and agreed to.

Clause 31B.

Dr. NARESH CHANDRA SEN GUPTA: I beg to move that clause 31B be omitted.

Of all the preposterous things in this Bill this clause is absolutely the most preposterous. It says—"no suits shall lie in any civil court for compensation in respect of any injury, damage or loss resulting from an improvement work or from anything done under this Act." This gives complete immunity not only to the Secretary of State for India in Council, not only to the Government of Bengal or the Hon'ble Member, but to all other officials connected with the administration of this Bill down to the mere *pyada*. It goes a great deal further than the exploded doctrine of the divine right of kings. It is inconceivable that such a thing should appear in a law in British India which started on its present career with a provision that suits against the Secretary of State for India for any wrong done by the Government will lie in the civil courts. It is useless to waste breath over the nature of the provision. The answer I know of my hon'ble friend would be that unless you have this it will not be possible to move. At every step you will be interfered with by that obnoxious creature—the civil court. You will remember that it is not a question of any injunction. It is not a question of any receiver being appointed, but a suit for compensation. You go and take away my land on the pretence of doing improvement work, you go and construct works which result in destroying the crops on my land; I will have no compensation unless the Government choose to give it. I am all the more strengthened in my opposition to this clause by what I know of what has happened very near Calcutta, in the villages Ghuni, Jatragachi and elsewhere which have been flooded and crops have been destroyed and the people have been reduced to utter starvation because of the defective canals of the Government, because of the defective construction and the defective maintenance of that improvement. That matter has engaged the attention of Government for some time past, palliatives have been devised but the remedy has not come. These people have perhaps the right to bring a suit against the Secretary of State in Council now, but the people of the future who will be affected similarly as the people in Ghuni and Jatragachi; they will have absolutely no relief on account of any damage to their crops on account of these improvement works. There is no doubt that there is a provision for making a petition to the

proper authorities and Government will see that compensation is given. We have not had any occasion to cultivate that amount of confidence in our Government officials which would enable us to subscribe to that view. But perhaps we must be prepared to move with the time. Perhaps we must be prepared to see this country reduced to the condition of Italy or Germany, and perhaps it is with those great examples before their eyes that the Hon'ble Member has introduced measures to have absolutely autocratic and uncontrolled power in his hands to be in a position to do whatever he chooses for the benefit of the people, perhaps without caring a bit if an injury is done. Perhaps we have to learn a little bit of German and to cry out Heil, not Hitler, but—. I do not know whether it will be Nazimuddin or Townend. If this Bill comes into operation they will be well entitled to it.

The Hon'ble Khwaja Sir NAZIMUDDIN: I am not surprised at the attitude of the hon'ble member. Throughout the Bill he has been consistent: he does not trust the Government and wants all questions in dispute to be referred to civil court. That is a line of policy which one may reasonably adopt and Dr. Sen Gupta has definitely adopted that policy. But I should like to submit before the House that the evil which we are trying to eradicate is a very serious evil and it requires drastic treatment. If compensation is allowed and people are allowed to go to civil courts, we apprehend that the evil which we are trying to eradicate will not be eradicated. It is true that the power of granting compensation will rest in the hands of Government, but I would ask the House to remember that after all the future Government will be of the people, for the people and by the people (DR. NARESH CHANDRA SEN GUPTA: Question), and there should be no apprehension in the mind of my hon'ble friend that injustice will be perpetrated on the poor people. After all, if there is any damage and a responsible Government realise that the damage is due to the action of Government, compensation will be given, but we do not want innumerable civil suits to be filed as a sort of obstructionist measure against any improvement work that may be carried out. In view of the above and in view of the fact that we feel it is essential that this Act should operate, I hope that civil court should be barred altogether and the people should repose their trust on the Government of the future. I hope the hon'ble member will withdraw his amendment. But I am afraid he will not do it, so I have no alternative but to oppose it.

The amendment was put and lost.

The question that clause 31B stand part of the Bill was put and agreed to.

Clause 32.

Mr. S. M. BOSE: I beg to move that in clause 32, in line 2, after the words "good faith" the words "and with due care and attention" be inserted.

The object is obvious. Where a person does an act in good faith but does it negligently, he should be made liable. We find the same words in section 539 of the Calcutta Municipal Act, 1923. I see no reason why when a Government official does an act with gross negligence trampling on private rights, it should be called an act done in good faith. There ought not to be any such law. I think it is only when he acts in good faith and with due care and attention that he should be safeguarded from any action against him. With these words I move the amendment.

Maulvi ABUL QUASEM: I speak subject to correction. If I remember aright, the words "good faith" occur in the General Purposes Act, and there it is said that nothing shall be done in good faith unless it is done with due care and attention; so in the phrase "good faith" due care and attention is implied. I think the amendment proposed by Mr. S. M. Bose is not in order.

The Hon'ble Khwaja Sir NAZIMUDDIN: Sir, I oppose it. In view of what Maulvi Abul Quasem has said, I think the hon'ble member will withdraw his amendment.

The amendment was then, by leave of the Council, withdrawn.

The question that clause 32 stand part of the Bill was put and agreed to.

Clause 33.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 33(2)(c), in line 1, for the words "increased profits" the words "increase in the profits" be substituted.

It is purely verbal.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 33(2)(c), in line 3, the words "as regards agricultural lands" be omitted.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 33(2)(*cc*), in the last line, after the word and figure "section 8," the following be added, namely:—

"by different classes of '*adhiars*,' '*bargadars*' or '*bhagdars*' and by the persons whose land is cultivated by such '*adhiars*,' '*bargadars*' or '*bhagdars*,' " be added.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that to clause 33(2)(*ccc*), the following be added, namely:—

"and the manner in which objections under sub-section (*1*) of that section shall be made."

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that after clause 33(2)(*ccc*), the following be inserted, namely:—

"(*cccc*) the annual allocations to be made under section 8B in respect of each improvement work."

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that clause 33(2)(*d*) be omitted.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that clause 33(2)(*dd*) be omitted.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that for clause 33(2)(*e*) the following be substituted, namely:—

"(*e*) the form and manner of preparation and publication of a statement under section 10 and its republication under sub-section (*1*) of section 10B.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 33(2)(*ee*), in line 2, after the word, figures and letter "section 10A" the words, brackets, figures and letter "and of a revised notice of demand under sub-section (*2*) of section 10B" be inserted.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that after clause 33(*2*)(*ee*), the following be inserted, namely:—

"(*eee*) the manner in which a statement republished under sub-section (*1*) of section 10B may be added to or altered, and the form and manner of publication of a supplementary statement under section 10C."

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that in clause 33(*2*)(*f*), in line 3, the figures and letter "11A" be omitted.

The amendment was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that clause 33(*2*)(*jj*) be omitted.

The amendment was put and agreed to.

The question that clause 33, as amended in Council, stand part of the Bill, was put and agreed to.

New Schedule.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that after clause 33, the following be added, namely:—

"*The Schedule.*

[See section 19B(*1*).]

(1) The Bengal Irrigation Act, 1876 (Bengal Act III of 1876).

(2) The Bengal Drainage Act, 1880 (Bengal Act VI of 1880).

(3) The Bengal Embankment Act, 1882 (Bengal Act II of 1882).

(4) The Bengal Sanitary Drainage Act, 1895 (Bengal Act VIII of 1895).

(5) The Bengal Embankment (Sundarbans) Act, 1915 (Bengal Act IV of 1915).

(6) The Bengal Agricultural and Sanitary Improvement Act, 1920 (Bengal Act VI of 1920)."

The motion was put and agreed to.

Preamble.

The question that the Preamble stand part of the Bill was put and agreed to.

The Hon'ble Khwaja Sir NAZIMUDDIN: I beg to move that the Bengal Development Bill, 1935, as settled in Council, be passed.

Sir, I am grateful to the members of the House for the support they have given in favour of the Bill and in getting this Bill through. I feel that I also ought to say a few words about Mr. Townend, who has played the chief part in framing this Bill, and I am sure his name will be gratefully remembered in Bengal. I am also extremely grateful to the members of the Select Committee who co-operated with us all along and helped to their utmost in improving the Bill, so that when the Bill emerged from the Select Committee it came out as a greatly improved Bill. Last of all, I thank you, Sir, for giving us facilities for moving short-notice amendments, without which it would have been almost impossible for us to finish the Bill this Session. Nor can I omit from the list of the recipients of my thanks the Secretary in the Council Department and the Secretary in the Legislative Department, the latter for the assistance he has rendered Government in drafting short-notice amendments.

In conclusion, I want only to say just a few words to those members who have an apprehension that this Bill may act harshly and unjustly on the cultivators of Bengal, but Sir, I may assure them that, as far as this Bill is concerned, instead of doing that, it is going to be a great boon to the people, particularly to the people living in the decadent areas. With these words, I beg to commend my motion to the acceptance of the House.

Babu AMULYADHAN RAY: Mr. President, Sir, I have carefully heard the debate and with undivided attention I have heard the arguments both for and against the Bill. For the first time in the history of this Council I have seen the representatives of the poor people the labourers and the cultivators of the soil sharply divided in their opinion with regard to the detailed provisions of the Bill, although none of them is opposed to the principle. I, for myself, Sir, shall go one step further, as I sincerely believe that it is the duty of Government to improve the irrigation, sanitation, agriculture and industries of the country from the provincial revenue. It is more so, Sir, as it is their action in constructing the railways and the innumerable embankments, which are mainly responsible for turning the everflowing channels and rivers of Bengal into dead and dying rivers. I submit, Sir, that it is a sacred duty, and failure to discharge it is a crime, and much did I wish that the entire cost in giving effect to the provisions of this Bill could be met by Government without imposing any improvement levy whatsoever. But, Sir, where is the money. The present income and expenditure of the province do not leave any surplus of even a farthing. What is to be done, then? To my mind, there are three alternatives under the circumstances in which we are placed to-day. The first alternative is to secure money in the public exchequer

by bringing down the abnormal rise in the cost of running the general administration of the country, and, secondly, by compelling the Government to accept the unanimous recommendations of the last Retrenchment Committee—especially those that are contained in paragraph 377 of their report. In other words, in view of the remarkable fall in the cost of living since 1922, the temporary 10 per cent. cut in the pay of all officers drawing more than Rs. 40 should be made permanent in the case of all Indian officers drawing more than Rs. 100. Moreover, to pass this Bill without provisions for an improvement levy, the whole of the jute duty and the permanent settlement——

Mr. PRESIDENT: Order, order. You need not go into those matters—pay of officers, jute duty and permanent settlement have nothing to do with the Bill.

Babu AMULYADHAN RAY: I am only submitting ways and means of doing what the Development Bill is intended to do, but without the improvement levy——

Mr. PRESIDENT: I will not allow you to go out of your way to make sweeping remarks of this type.

Babu AMULYADHAN RAY: All right, Sir, but I may say that to kill this Bill is to allow the country to be devastated and depopulated, and we should pass this Bill in such a way as would save this country and the people from ruin and devastation. I do not suppose that any member of this House wants that this Bill should be killed and allow the half-fed and half-clothed people of the country to die of cholera and malaria for all time to come. In the midst of these surrounding circumstances and in the absence of any hope of working out the provisions of this Act without imposing an improvement levy and apprehending that the Bill might be rejected, I have accepted its principles and supported it for the good of the people, and, Sir, what is that principle? Suppose a tenant has land on the river Bhairab which is now dead, and earns Rs. 10 per *bigha*. If the authorities by spending money from their own pocket re-excavate that river and in consequence increase the fertility of the soil and as a result thereof the tenant earns Rs. 20 net per *bigha*, I do not see why he will object to pay Government up to Rs. 5 to meet the cost of the excavation. On the other hand, if the tenant's income is not increased, Government will have no right to take anything from him.

Now, I shall pass on to another point. This Bill has been characterised as a taxation Bill. I made it very clear before the members of this House that if this Bill had been a taxation Bill and if it had been against the interests of the tenants, I would have lent my support to kill it in its infancy. The duty of the Council is not to

impose any additional taxation upon the poor cultivators but to relieve them as much as possible of their present liabilities of taxation. Take the tobacco and stamp taxation laws of the last session which were passed in spite of our opposition. I ask the Council whether they will put any money in the pockets of the poor cultivators who will be bound to pay the fixed amount of taxation as provided in those Acts. On the other hand, this Bill will take only up to annas eight after giving the tenant one rupee. In any view of the matter it is not a taxation Bill; but it is a Bill based on the principle of "no profit, no levy with a condition of pecuniary penalty imposed upon the Government in case of its inability to increase the income of the people."

Now, Sir, I shall deal with the safeguards which have been provided in this Bill for the protection of the *raiyats*. It has been said in clear terms in clause 5A that no improvement levy shall be imposed unless the Bengal Legislative Council has, by a resolution, recommended the imposition of such levy. Why then there is so much apprehension? The key to the whole Bill will be in the hands of the members of the future Legislative Council and Government shall have no power to do anything without their consent.

Sir, Dr. Naresh Chandra Sen Gupta whispered the other day that it is an "eye-wash." He is not here now, but does he suggest for a moment that the members of the future Legislative Council will betray the tenants and sacrifice their interests, as was done in the year 1928 by the Swarajist members under the banner of the Congress in connection with the passing of the Bengal Tenancy Amendment Act? The condition of 1928 does not exist now—in 1935. Then the people were sleeping over their rights, and they are now waking up, and it is their duty to vote for those who will safeguard their interests and rights. If the tenants fail to discharge their duty in rightly recording their votes, no amount of safeguards and no amount of legislation will protect them. Moreover, if the rights and interests of the 80 per cent. of the people of this country are again sacrificed by the members of the future Legislative Council—I mean their chosen representatives—I wish I may not be reborn in this cursed land of God!

Now, Sir, in conclusion I must thank from the core of my heart the Hon'ble Khwaja Sir Nazimuddin whom I know to be a friend of the *raiyats*. He deserves our thanks for the trouble he has taken in connection with this Bill. The people of Bengal began to take interest in him when he produced the Bengal Rural Primary Education Act which is unfortunately now rotting in Writers' Buildings. I would therefore give a fair warning to the Hon'ble Member that this Bill does not meet with the same fate. Before I resume my seat I shall not be wanting in thanking Mr. Townend, but for whose help and co-operation it is doubtful whether this Bill would have come before this Legislature. However, Sir, both the Hon'ble Member in charge of the Bill and

Mr. Townend should seriously take note of the fact that I seriously accuse both of them of giving undue concessions to the *zemindars* of Bengal. With these observations I support the motion that the Bill as settled in Council be passed.

Maulvi ABUL QUASEM: Sir, now that the Bill is going to be passed into an Act, it is only fair to recognize the great ability and industry which have been brought to bear upon this Bill by Mr. Townend and the Hon'ble Khwaja Sir Nazimuddin. They have both earnestly tried to pilot this Bill through the Council in the face of the opposition offered by this side of the House. Those of us who opposed this measure or its provisions were principally actuated by an apprehension that Government, under the cover of trying to improve and develop the whole of Bengal, were really seeking to gain some money on account of the three canals, viz., the Eden, the Bakreswar and the Damodar. But Government have repeatedly assured this Council that they mean to follow up the passing of the Act by real action which will confer real good on the people of this province. Sir, if Government actually implements the provisions of this Bill by speedy and genuine action calculated to prove of real benefit to the people whose interests they have so loudly proclaimed they have at heart, no one would be more pleased than I who have from past experience not been able to take Government at their word. If Government's pleadings are proved by their action, no one would be better pleased than I. The admirable way in which this Bill has been piloted by Mr. Townend and the Hon'ble Khwaja Sir Nazimuddin deserves our praise. We may have differed in regard to some of the provisions, but I feel that there is none in this Council who will differ about giving thanks to these two members of the Council who have piloted this difficult Bill through the Council with skill and ability.

The question that the Bengal Development Bill, 1935, as settled in Council, be passed, was put and agreed to.

Mr. PRESIDENT: Order, order. The Council stands adjourned till 3 p.m. on Wednesday.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 14th August, 1935, at the Council House, Calcutta.

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